



Agenda

Planning Commission Meeting
Wednesday, August 26, 2026
Richland City Hall ~ Council Chambers
625 Swift Boulevard

Regular Meeting - 6:00 p.m.

Welcome and Roll Call

Approval of Agenda (Approved by Motion)

Approval of Minutes (Approved by Motion)

1. Approval of the July 22, 2026 Planning Commission Meeting and the August 12, 2026 Planning Commission Workshop Meeting Minutes.
 - Shairra Rahseparian, Administrative Assistant II

Public Comments: Please limit public comments to 2 minutes. The public comment period is not an opportunity for dialogue with the Planning Commission, or for posing questions with the expectation of an immediate answer. Many questions require an opportunity for information-gathering and deliberation. For this reason, the Planning Commission will accept comments, but will not directly respond to comments, questions or concerns during public comment. Records intended for the Planning Commission's consideration must be submitted to the Planning Manager by 4:00 p.m. the day of the meeting for distribution.

New Business - Public Hearing

New Business - Other

2. Comprehensive Plan Update – Draft Housing Element Discussion
 - Jennifer Cannon, ECONorthwest Senior Project Manager

Unfinished Business - Public Hearing

Communications

3. Important Dates: 2026 Comprehensive Plan Update
 - Jennifer Ballard, Senior Planner
4. Washington State Department of Commerce Short Course on Local Planning
 - Jennifer Ballard, Senior Planner

Adjournment

This meeting will be broadcast live on Spectrum Channel 192, on the City's website at richlandwa.gov/CityViewTV and on YouTube at <https://www.youtube.com/@RichlandCityViewTV>.

Richland City Hall is ADA accessible. Any individual who has difficulty attending the meeting in-person may request to provide comments remotely. (RCW Ch. 42.30) Requests for sign interpreters, audio equipment, and/or other special services must be received 48 hours prior to the meeting by calling the City Clerk's Office at 509-942-7389.



PLANNING COMMISSION AGENDA ITEM STAFF REPORT

Meeting Date: 8/26/2026

Agenda Category: Approval of Minutes

Prepared By: Shairra Rahseparian, Administrative Assistant II

Subject

Approval of the July 22, 2026 Planning Commission Meeting and the August 12, 2026 Planning Commission Workshop Meeting Minutes.

Strategic Priority

Strategic Priority I - High Performance Government

Recommended Motion

Move to approve the July 22, 2026, Planning Commission Meeting and the August 12, 2026, Planning Commission Workshop Meeting minutes as presented.

Summary

Meeting minutes for July 22, 2026, Planning Commission Meeting and the August 12, 2026, Planning Commission Workshop Meeting are attached for review and consideration.

Attachments

1. Draft 2026.07.22 Planning Commission Meeting Minutes
2. Draft 2026.08.12 Planning Commission Workshop Meeting Minutes



MINUTES

Richland Planning Commission Meeting
Wednesday, July 22, 2026
Richland City Hall ~ Council Chambers
625 Swift Boulevard

Planning Commission Regular Meeting - 6:00 p.m.

Vice-Chair Lambert called the meeting to order at 6:00 p.m.

Attendance: Chair Richardson	Absent
Vice-Chair Lambert	Present
Member Anderson	Present
Member Hernandez	Present
Member Leonard	Absent
Member LeCompte	Present
Member Arm	Absent

Also present were Councilmember Samuel, Development Services Director Rizzitiello, Senior Planner Nelson, Planner Reed, and Administrative Assistant II Rahseparian

Approval of Agenda

COMMISSION MEMBER ANDERSON MOVED AND COMMISSION MEMBER HERNANDEZ SECONDED THE MOTION TO APPROVE THE AGENDA AS PUBLISHED. MOTION CARRIED 4-0.

Minutes

1. Approval of the June 24, 2026, Planning Commission Meeting Minutes.

COMMISSION MEMBER HERNANDEZ MOVED, AND COMMISSION MEMBER ANDERSON SECONDED, TO APPROVE THE JUNE 24, 2026, PLANNING COMMISSION MEETING MINUTES. THE MOTION PASSED 4-0.

Public Comments

Administrative Assistant II Rahseparian read the Public Comment procedure.

Richland resident, Dr. Terri Stewart, provided materials about the data center. She spoke on the power and water demand and requested 3 key principles be followed: people and existing businesses get 1st priority to power and water, the natural resources are protected, and decisions and operations of the data center are transparent.

Vice-Chair Lambert inquired if Development Services Director Rizzitiello would want an opportunity to respond or add information. Development Services Director responded that data centers could be covered in goals in objects but will primarily live in Title 23 and Title 24 and is typically in the Development Code for specific uses as a performance standard.

New Business:

2. Comprehensive Plan Update - Draft Land Use Goals and Policies

Nicole Stickney, Associate Principal with AHBL, Inc., presented an overview of the Draft Land Use Goals and Policies to prepare the Commission for the upcoming adoption activities associated with the 2026 Comprehensive Plan Update.

Commission members discussed Washington State having a Multisector Plan on Aging, how the Comprehensive Plan intends to address aging and land use specifically to an aging population, how the City would use a Community Development agreement under LU1 and it's legislative process, the complexity of existing development agreements and policies and the impact they may have on the goals of the Comprehensive Plan Update, broadening the section on light pollution to include noise pollution and vibrations, impact from carryover language from past documents and their updates, streamlining zoning, and the relationship of beautification in public spaces in relation to the climate plan and water usage.

3. Comprehensive Plan Update - Draft Transportation Element

Nicole Stickney, Associate Principal with AHBL, Inc., provided an overview of the Draft Transportation Element.

Planning Commission had no questions as it was straightforward, and they have previously discussed Transportation in other meetings throughout the year.

COMMISSION MEMBER X MOVED, AND COMMISSION MEMBER X SECONDED TO

Communications

Development Services Director:

- After an extensive wait, the Department of Ecology approved our Shoreline Management Plan
- A position on the Planning Commission opened and will be posted for applications
- City Council approved the Parks, Recreation, and Open Space (PROS) Plan

- Economic Development will be awarding contracts for the Richland Innovation Center in the upcoming month

Adjournment

Vice-Chair Lambert adjourned the meeting at 7:29 p.m.

APPROVED:

ATTEST:

Jet Richardson, Chair

Shairra Rahseparian, Administrative Assistant II

DATE APPROVED:

DATE PUBLISHED:



MINUTES

Richland Planning Commission Workshop Meeting
Wednesday, August 12, 2026
Richland City Hall ~ Council Chambers
625 Swift Boulevard

Planning Commission Regular Meeting - 6:00 p.m.

Chair Richardson called the meeting to order at 6:00 p.m.

Attendance: Chair Richardson	Present
Vice-Chair Lambert	Present
Member Anderson	Present
Member Hernandez	Present
Member LeCompte	Absent
Member Arm	Absent

Also present were Councilmember Samuel, Economic Manager Wallner, Senior Planner Ballard, Senior Planner Nelson, Planner Reed, and Administrative Assistant II Rahseparian

Public Comments

None.

New Business:

1. Comprehensive Plan Update - Proposed Revisions to RMC Titles 19 & 24

Nicole Stickney, Associate Principal with AHBL, Inc., presented an overview of the proposed revisions to RMC Titles 19 and 24 to prepare the Commission for the upcoming adoption activities associated with the 2026 Comprehensive Plan Update.

Commission members discussed minimum lot size requirements, unit lot subdivision and accessibility, and language for the proposed text.

Additional information can be found in the presentation included with the agenda packet.

Communications

Economic Manager Wallner:

- The new Planning Manager Hattori will start on August 24, 2026.

- Boards, Commissions, and Committees (BCC) Volunteer Appreciation Event will be on September 30, 2026, from 5:00 – 7:30 pm at the Richland Community Center.

Adjournment

Chair Richardson adjourned the meeting at 6:57 p.m.

APPROVED:

ATTEST:

Jet Richardson, Chair

Shairra Rahseparian, Administrative Assistant II

DATE APPROVED:

DATE PUBLISHED:



PLANNING COMMISSION AGENDA ITEM STAFF REPORT

Meeting Date: 8/26/2026

Agenda Category: New Business - Other

Prepared By: Jennifer Cannon, EConorthwest Senior Project Manager

Subject

Comprehensive Plan Update – Draft Housing Element Discussion

Department/Office

Development Services

Document Type

Planning Commission Item

Recommended Motion

None.

Summary

Jennifer Cannon, Senior Project Manager with EConorthwest, will present the 2026 Comprehensive Plan Update Draft Housing Element for review and discussion.

Fiscal Impact

None.

Attachments

1. Housing Element Memo 2026.08.19
2. Draft Housing Element 2026.08.19
3. Draft Housing Analysis 2026.08.19
4. Housing Presentation 2026.08.19

DATE: 8/14/2026
TO: Nicole Stickney, AHBL
FROM: Bob Parker, Jennifer Cannon, Mackenzie Visser, ECONorthwest
SUBJECT: Draft Housing Element Staff Report

ECONorthwest is a subcontractor to AHBL, the City of Richland’s prime consultant to their 2026 Comprehensive Plan Update. ECONorthwest is supporting the update of the Housing and Economic Development Elements and has prepared a first draft to update the Housing Element of the Comprehensive Plan in accordance with the Growth Management Act (GMA) and guidance from the Washington State Department of Commerce.

To accomplish this work, we considered the City’s recent developments, goals, and adopted plans and policies. Relevant policies include the Benton County Countywide Planning Policies,¹ the 2025-2029 Tri-Cities Assessment of Fair Housing (adopted in 2025), the Benton County Local Homeless Plan (2020-2025), the Richland Strategic Plan (2024-2026), and the Tri-Cities Consolidated Plan (adopted in 2025). We also reviewed guidance from the Department of Commerce on implementing recent state legislation, including, but not limited to, updated requirements for middle housing; accessory dwelling units; shelter, transitional, emergency, and permanent supportive (STEP) housing; measures to mitigate displacement risks and racially disparate impacts (RDI); guidance for local government Housing Elements and housing regulations; and other relevant state provisions.

Key findings from the attached Housing Technical Analysis report are also summarized in the Housing Element to provide background on Richland’s existing housing conditions and identified needs. In addition to quantitative data analysis, these findings are informed by stakeholder engagement, including interviews with local developers and service providers, as well as prior engagement with the Planning Commission and the broader public (on-line survey, open house, library displays). Major topic areas added to the Housing Element include:

- ◆ Housing targets
- ◆ Housing growth
- ◆ Household income and cost burden
- ◆ Housing stock characteristics

We have shown “tracked changes” for the Housing Element Goals and Policies section so the City of Richland Planning Commission and other reviewers can easily review the proposed changes. The changes include:

¹ Benton County adopted updated Countywide Planning Policies (CWPPs) via Resolution 2026-111 and Ordinance No. 664 (dated February 24, 2026).

- ◆ **Goal HE.1** was revised to reflect new state-law requirements and support the City's housing targets. New and revised policies include support for middle housing and accessory dwelling units; a stronger focus on infill and redevelopment near existing infrastructure and the Central Business District; the preservation of manufactured housing and protection of its residents; expanded accessible and senior "aging in place" options; and a broader mix of housing types for small and lower-income households.
- ◆ **Goal HE.2** was revised to reflect a range of strategies and tools for developing, improving, and preserving affordable housing opportunities. These tools include evaluating the Washington Multifamily Tax Exemption (MFTE) program, creating a regional housing committee, and considering the potential use of public property for development. Additionally, policies reflect state requirements for mitigating displacement risk and racially disparate impacts.
- ◆ **Goal HE.3** policies were revised to reflect the 2025-2029 Tri-Cities Consolidated Plan.
- ◆ **Goal HE.4** policies were revised to reflect a stronger focus on reinvestment in older neighborhoods and the preservation of existing housing.
- ◆ **Goal HE.6** was incorporated into Goal HE.5. In addition to this change, the new **Goal HE.5** policies prioritize investments in sewer, water, and transportation, and opportunities to reduce or eliminate requirements mandating a minimum number of off-street residential parking spaces.



HOUSING ELEMENT

Introduction

The Housing Element is intended to provide policy background and broad direction for housing programs and decisions towards meeting community goals. Consistent with other elements of the City's Comprehensive Plan, it provides a framework for future planning decisions and outlines goals and objectives the City plans to implement to meet local needs.

SUMMARY OF HOUSING ASSESSMENT FINDINGS

Richland's high quality of life, temperate climate, expansive open spaces, vibrant community amenities and steady job growth has attracted an influx of people to Richland. Over the last decade the city has experienced tremendous growth, increasing from around 53,000 people in 2015 to around 66,000 by 2026 (a 20% increase over the decade; see Table H-1). The city is growing on average by two percent annually, higher than Benton County's 1.3% average annual growth. This growth trend is expected to continue for the next twenty years. ¹

Table H-1: Population Change and Growth Rates

LOCATION	2015	2026	PERCENT CHANGE	AVERAGE ANNUAL GROWTH RATE
City of Richland	53,080	66,290	25%	2.0%
City of Kennewick	78,290	89,220	14%	1.2%
City of Pasco	68,240	85,560	25%	2.0%
City of West Richland	13,960	18,820	35%	2.0%
Benton County	188,590	223,200	18%	1.5%
Franklin County	87,150	105,900	22%	1.7%
State of Washington	7,061,410	8,176,300	16%	1.3%

Data Source: Washington State Office of Financial Management, 2015 and 2026

Richland will need a range of housing types, sizes, and accommodations to serve the diverse needs of both a growing community and existing residents seeking different housing accommodations throughout their lives. As the city continues to mature and develop,

¹ The Washington State Office of Financial Management produces official 20-year population projections for each county: a low, medium and high. County officials select which target to use and how they will be divided among cities, towns, and unincorporated areas. The medium projection assumes consistent trends in births, deaths, and migration.

opportunities for new housing will increasingly come from infill and redevelopment within existing neighborhoods and areas. Consequently, infill housing development is expected to play an important role in meeting future housing needs.

Household demographics further underscore the need for a diverse housing supply. In addition, a significant portion of Richland households are smaller. In fact, around 64% of all households in Richland consist of one or two people (in 2024). Richland has the largest share of seniors (persons aged 65 or older) in the Tri-Cities with 17% in this age bracket (2024). This suggests that Richland's housing needs are not limited to large, detached homes. Rather, smaller households may need or desire apartments, townhomes, condominiums, accessory dwelling units, cottages, or smaller single-unit homes. **Overall, expanding the mix of available housing types can help ensure Richland serve both smaller households and families that need more bedrooms, meeting the needs of residents at different life stages.**

Richland's housing stock has become more diverse over time, and this momentum should continue to meet the community's evolving and wide range of housing needs. Single-family detached housing remains the predominant type of new housing being built (see Figure H-1). However, past few decades have ushered increased production of multi-unit dwellings; the average lot sizes of single-family developments have generally decreased. As of 2024, nearly almost two-thirds of households live in single-unit dwellings. Some new apartments have been built near the city center in recent years while other newer housing has been constructed outside of Richland's center located near neighborhood centers, which are proximate to services, and places of employment. Approximately 8.5% of residential units built since 2000 are condominiums, almost twice the share as pre-2000 and around one-third of all new units built from 2020 through 2025 is multi-unit housing.²

² Defined as all housing structures with 2+ units.

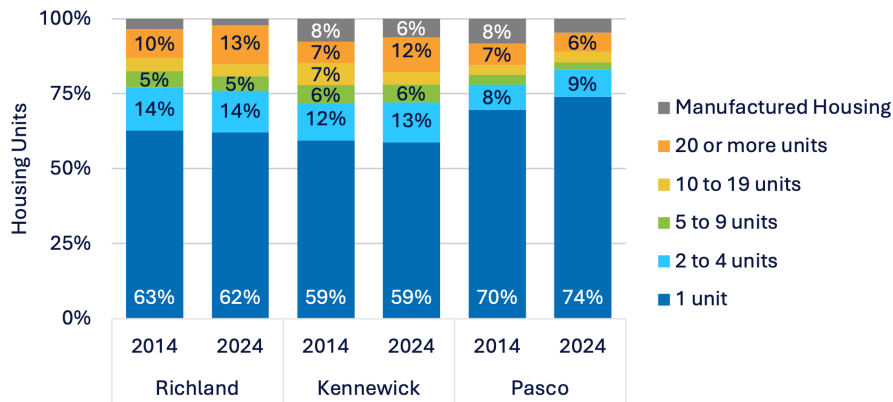


Figure H-1: Housing Types, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Note: Values for West Richland cannot be reported due to high margins of error.

While more than half of Richland households occupy homes they own, renters account for 36% of households, and the share of renter households grew from 2014 to 2024. This momentum will likely continue, especially with a greater diversity of housing choices for both owner and renter occupied housing offered such as accessory dwelling units, multi-unit and middle housing, as well as increasing capacity for more rentals and housing near shopping, community services, and transit. By 2046, the city's target is to add a little over 14,000 additional housing units, including around 7,700 units affordable to low-income households earning below 80% of the area median incomes and 2,300 units affordable to moderate income households earning between 80 and 120% of the area median income).³ Overall, a broad mix of housing units could better serve a range of different needs.

Housing will need to be upgraded and designed to better accommodate the growing senior population and those with disabilities. An estimated 14% of Richland households include at least one person with a physical, cognitive, sensory, or other disability, reflecting demand for housing that is accessible, adaptable, and conveniently located near services (such as healthcare and transportation amenities). Housing challenges extend beyond affordability as much of the city's housing stock is more than 50 years old, which presents ongoing maintenance and rehabilitation needs.⁴ The City of Richland and the Tri-Cities HOME Consortium administer a home rehabilitation program to help low-to-moderate income homeowners with home upgrades and repairs including plumbing, furnaces, roofing, and accessibility modifications. Some upgrades may address health and safety issues to include HVAC, roofs, electrical and accessibility issues. As the

³ Based off 2025 Benton County Population and Housing Needs Allocation (using 2020 as baseline year).

⁴ Over 35% of Richland's single-unit dwellings are more than 50 years old and around 85% of two-to-four-unit dwellings were built before 1960.

city's population ages, these programs become increasingly important in helping residents age in place.

Over the last decade, housing costs and rents have escalated at a higher rate than household incomes. Although the city's median household income is relatively high for the region, residents span a broad range of income levels. Housing costs have generally risen faster than income levels, placing increasing financial pressure on many households. Renters are especially vulnerable to rising housing costs because rents can adjust more quickly to changing market conditions. However, homeowners can also experience affordability pressures from increasing home prices, property taxes, insurance premiums, utility costs, and maintenance expenses. Over one-third of renters and 15% of homeowners are cost burdened, meaning they spend more than 30% of their income on housing costs. These costs may be particularly burdensome for seniors, people with disabilities, and other households living on fixed or slowly growing incomes. Keeping housing affordable will become increasingly important to help support economic opportunity, reduce displacement pressures, ensure residents can age in place and remain in their neighborhoods.⁵

Providing affordable housing for current and future residents is a priority for Richland. Over the next 20 years, the City must plan for more than 14,000 additional homes, including a large number of homes affordable to low-income households earning less than 50% of the area median income (AMI). This includes housing for those experiencing homelessness, individuals with disabilities, and others with specialized housing needs. While the regional service system is primarily oriented on emergency shelter, homelessness prevention, and short-term rehousing interventions are also needed such as actions identified in the [2025–2029 Tri-Cities Assessment of Fair Housing](#) and the [Benton County 2026-2030 Local Homeless Plan](#).

As new market-rate housing is built, the expanding housing supply may help moderate housing costs overall while providing a wider supply, particularly if smaller and less expensive housing units are built. However, market-rate housing needs alone is unlikely to meet the community's full range of housing needs. Additional actions and strategies will also need to be implemented to effectively to support meeting diverse housing needs. Housing that serves lower-income households, people experiencing homelessness, and even some moderate-income households will likely require targeted strategies and support.

Various engagement efforts including open houses, interviews, and a community survey informed the development of the Housing Element. Most survey respondents expressed concern about rising housing costs and the lack of affordable housing options, including opportunities for homeownership. Community engagement also highlighted a desire for a greater variety of housing types, such as cottage housing and mid-rise mixed-use development. Other priorities included safer sidewalks, more walkable and inclusive communities for future generations.

⁵ Between 2015 and 2026, the average rent in Richland increased around 43%, from around \$1,100 to \$1,575. During this time, the median housing value more than doubled, from around \$215,000 to \$458,000.⁵ Over a similar period, the median household income increased by 38% (\$69,400 to \$95,800 from 2014-2024).

Additional findings and detail related to housing needs, including displacement risk analysis, racially disparate impacts, a full housing needs assessment, commuting analysis, community demographic analysis, housing market analysis, a more detailed affordable housing and senior housing inventory, review of existing housing programs and initiatives, and more detail on housing prices and affordability, as well as more detailed summary of the community engagement findings can be found in the Housing Technical Appendix.

Policy Context

The Washington State Growth Management Act (GMA) includes Housing one of the fifteen planning goals to be used for guiding the development of comprehensive plans and development regulations. The adopted goal for Housing states: “Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety residential densities and housing types, and encourage preservation of existing housing stock.”⁶ In addition, the planning goal influences the Housing Element updates to “Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.” At the state level, the GMA requires local jurisdictions to adopt Housing Elements consistent with statewide goals and objectives.

In the 2020s, new state laws were enacted affecting Housing Elements and influencing housing policies and regulations implemented by local governments. In 2021, legislation under House Bill (HB) 1220 was signed in to law, updating the Housing Element requirements and requiring local governments to “plan for and accommodate” housing affordable to all income levels. The Housing Element must include an inventory and analysis of existing and projected housing needs and identify the target or the number of housing units by income level necessary to accommodate projected growth. This inventory also includes planning for emergency shelters, transitional housing, emergency housing, and permanent supportive housing (or STEP housing). More recently, HB 2266 (2026) clarified local regulation governing STEP housing and specifies that jurisdictions may not impose conditions on STEP uses that are more restrictive than those applied to comparable residential development or lodging uses.⁷ These changes reinforce the state's expectation that local governments support a full range of housing opportunities and remove unnecessary regulatory barriers to housing development.

Recent state legislation adopted during the 2020s requires cities to expand housing choices and increase housing capacity in traditionally single-family residential areas. HB 1110 (2023) requires many cities, including Richland, to allow middle housing types, such as duplexes, triplexes, fourplexes, townhomes, and cottage housing, in areas historically zoned for detached single-family homes. HB 1337 (2023) similarly expands opportunities for Accessory Dwelling Unit development requiring cities to allow at least two Accessory Dwelling Units (ADUs) on all lots zoned to allow single-family homes. Certain provisions of both laws do not apply to portions of lots constrained by

⁶ The housing planning goal in [RCW 36.70A.020\(4\)](#)

⁷ [Commerce](#) housing planning guidance, STEP requirements: [RCW 35.21.683](#) and [35A.21.430](#);

critical areas or their associated buffers.⁸ Various other state law requirements have emerged such as provisions for co-living housing, density bonuses, and requirements for local housing land capacity analysis.⁹

The Housing Accountability Act (HAA, also referred to as HB 2266), adopted in 2025 (via Senate Bill 5148) promotes accountability in local housing planning by creating an approval process for local government Housing Elements and housing regulations.¹⁰

PLANNING FOR HOUSING

Under Washington's Growth Management Act, Countywide planning policies provide a regional framework for local comprehensive plans. These policies are developed by counties, in coordination with cities, to ensure consistency on issues crossing jurisdictional boundaries, including urban growth, public facilities, transportation, housing, and economic development. For housing, countywide planning policies must consider the need for affordable housing for all economic segments of the population and establish parameters for how that need is distributed across jurisdictions.

The Benton County County-Wide Planning Policies help connect the City's housing element to broader regional and state growth planning targets and provide context for the City's housing-need targets, land-capacity planning, and strategies to accommodate future housing demand. To ensure that the housing needs of all economic segments of a city's population are addressed and housing-related burdens are not unequally borne by certain jurisdictions, each community must accommodate its fair share of affordable housing. Benton County adopted updated Countywide Planning Policies (CWPPs) via Resolution 2026-111 and Ordinance No. 664 (dated February 24, 2026). This action replaced the prior CWPPs (Ordinance 581 / Resolution 2017-127, last updated in 2017) and was adopted under RCW 36.70A.210 in cooperation with the County's cities. The City of Richland ratified the policies via its own Resolution No. 2025-131, adopted October 21, 2025. These policies establish the mandatory countywide framework that each jurisdiction's comprehensive plan must be consistent with.

For example, CWPP #15 – Housing for all economic segments - outlines the key planning requirements. Richland, the County, and the other cities must work together to provide housing for all income levels within the city and unincorporated county, per RCW 36.70A.070(2)(c)(d). Jurisdictions are directed to create conditions that support middle housing (duplexes to sixplexes, townhomes, courtyard apartments, cottage housing), accessory dwelling units (ADUs), and other housing types at appropriate densities within cities and Urban Growth Areas (UGAs). The policy includes five sub-actions:

- a) **Countywide need quantification:** Richland must participate in jointly quantifying and projecting total countywide housing need by income level and housing type (rental, ownership, senior, farmworker, group housing).

⁸ Middle housing requirements, as applicable, in [RCW 36.70A.635](#)–638; and ADU requirements in RCW [36.70A.680-682](#) and [RCW 36.70A.696-69](#)

⁹ Co-living requirements in RCW 36.70A.535; density bonuses required in [RCW 36.70A.545](#); parking requirements in [RCW 36.70A.620](#) and [36.70A.622](#); Housing land capacity requirements in [RCW 36.70A.115](#).

¹⁰ Additional [HB 2266 information](#) and [fact sheet](#).

- b) **Housing allocation plan:** The County and cities must develop/update a housing allocation plan assigning Richland its specific share of countywide housing need, and Richland must develop a housing element addressing how it will meet that allocation.
- c) **Income-band accommodation:** Richland must accommodate moderate, low, very low, and extremely low-income households consistent with the allocation plan.
- d) **Needs inventory:** Richland must complete an inventory/analysis of existing and projected housing needs by income band, consistent with its share of the countywide need.
- e) **Moderate density within UGAs:** Richland must provide moderate-density housing options within its Urban Growth Area boundary, including a range of middle housing types.

The housing element addresses the requirements under countywide planning policy #15.

Various regional and local plans, policies, and programs have been implemented to address housing challenges and support a broader range of housing options. A summary of key plans and programs is provided below.

The 2025–2029 Tri-Cities Assessment of Fair Housing (adopted in June 2025) identifies a low supply of affordable housing as one of the primary impediments to fair housing in the region, noting that increasing rents and low vacancy rates make it difficult for residents to secure stable housing.¹¹ A few actions are already under way related to:

- Consistency with HB 1337 expanding ADU opportunities along with dropping owner-occupancy restrictions as part of that process.
- Funding the Down Payment Assistance Program which offers up to \$50,000 in down payment/closing cost help and the owner-occupied rehabilitation program.
- Providing owner-occupied rehabilitation to homeowners that are 80% or below the Area Median Income to address health and safety concerns.
- Provide supportive services through HOME-ARP funding for those that are homeless, at-risk of homelessness, fleeing violence and at greatest risk of housing instabilities.

Benton County 2020-2025 Local Homeless Plan and the Benton County 2026-2030 Local Homeless Plan similarly identifies rapid population growth, rising housing costs, limited affordable housing supply, and stagnant wages as major contributors to housing instability and homelessness throughout the region.¹² Plan implementation is in progress, and several initiatives have moved forward:

- **Zoning changes enabling shelter and supportive housing development:** Richland passed Ordinance 2022-19, amending its code definitions to explicitly authorize emergency shelter facilities (including day/warming centers) and permanent supportive housing consistent with RCW 35.21.
- **Tenant-Based Rental Assistance (TBRA):** Through the Tri-Cities HOME Consortium (which Richland administers as lead agency), the region funds TBRA for income-eligible households. the Tenant-Based Rental Assistance program provides rental assistance to 59 households in the region. These programs are both aimed at homelessness prevention and rapid stabilization, which are core strategies in these plans.

¹¹ Tri-Cities HOME Consortium. 2025–2029 Tri-Cities Assessment of Fair Housing. 2025.

¹² Benton County 2026-2030 Local Homeless Plan.

- **HOME-ARP supportive services:** Like what is described above, the Consortium received a one-time HOME-ARP allocation (~\$2.4 million) targeted for serving people experiencing or at-risk of homelessness, those fleeing domestic violence/trafficking, and others at high risk of housing instability.
- **CDBG-funded case management for homeless-serving nonprofits** has continued, consistent with the plan's emphasis on connecting people to services.

Richland's 2024-2026 Strategic Plan further reinforces housing as a major local priority. Project focused community surveys and focus groups identified rising home prices, limited housing diversity, and zoning constraints as key concerns. Participants emphasized the need for a broader range of housing options, including "middle housing" types such as duplexes or townhomes. Expanding these options would be particularly valuable for younger residents, workforce households, and people who cannot afford higher-cost housing. In response, the City included "Increased housing availability" as a central outcome under its Focused Development strategic priority. The plan establishes targets to increase overall housing units by 4% and increase attainable housing units by 5% by 2026.¹³ The plan does not provide a definition of "attainable housing" however, attainable housing is generally understood as housing affordable to households earning roughly 80–120% of Area Median Income (AMI) which is sometimes called "missing middle" housing.

The City of Richland also initiated housing policies and codes updates to meet new state law requirements and help meet housing targets. Many of these updates were adopted in early 2026. Richland also administers owner-occupied rehabilitation programs funded through Community Development Block Grants (CDBG), which are used to make accessibility modifications and improve housing conditions for existing residents. In addition, the Tri-Cities HOME Consortium administers a regional Down Payment Assistance Program to support homeownership opportunities for lower-income households.¹⁴

NEW FEDERAL GOVERNMENT MEASURES

Federal housing policy may also create additional opportunities to address housing affordability and housing supply challenges. In July 2026, Congress passed the 21st Century ROAD to Housing Act, one of the most significant federal housing policy measures seeking to address the nation's housing affordability challenges. This act focuses on expanding housing supply through regulatory reforms, new funding opportunities, and other incentives for housing development.

Several provisions could benefit Richland and the surrounding area. For one, the City may directly benefit from the increased funding opportunities for affordable housing utilizing HOME program funding or from new or existing federal Community Development Block Grant (CDBG) funds, which can now be used to construct affordable housing. The bill also allows HUD to prioritize competitive housing grants in federally designated Opportunity Zones (OZ). This could support needed housing development and preservation in the city's OZ, which includes part of the 50- to 70-year-old [alphabet homes](#).¹⁵ The act also creates a \$200 million annual competitive grant program for local governments that expand housing supply through permitting and zoning reforms, and establishes a

¹³ City of Richland. *2024-2026 Strategic Plan*. 2023.

¹⁴ Tri-Cities HOME Consortium.

¹⁵ Richland has one Census Tract designated as an Opportunity Zone: Tract 102.04. [Opportunity Zones](#) map.

pilot program to support the conversion of vacant commercial and industrial buildings into affordable housing in economically distressed areas or OZs.

Another provision of the Act that could directly affect Richland's housing supply is the modernization of federal regulations governing manufactured housing, including the elimination of the requirement for a permanent chassis.¹⁶ Combined with enhanced financing opportunities for modular homes, these changes could support increased production of prefabricated homes, which already provide an important source of attainable homeownership in the City.

New laws limiting the degree to which large institutional investors can purchase and hold single-family homes could potentially improve the regional housing market for local residents. The Act also streamlines National Environmental Policy Act (NEPA) requirements for a range of federally supported housing projects, promotes single-stair safety guidance for apartment buildings up to 6 stories, and allows HUD to pilot a program to expand access to mortgages under \$100,000.

Housing Targets

The Washington Growth Management Act (GMA) requires the Washington State Department of Commerce to project future housing needs based on population targets. The analysis projects needed units for moderate, low, very low, and extremely low-income households, as well as emergency housing, emergency shelters, and permanent supportive housing. Based on guidance from Commerce, counties work with their municipalities to quantify the projected housing needs and allocate them to each jurisdiction in the county.

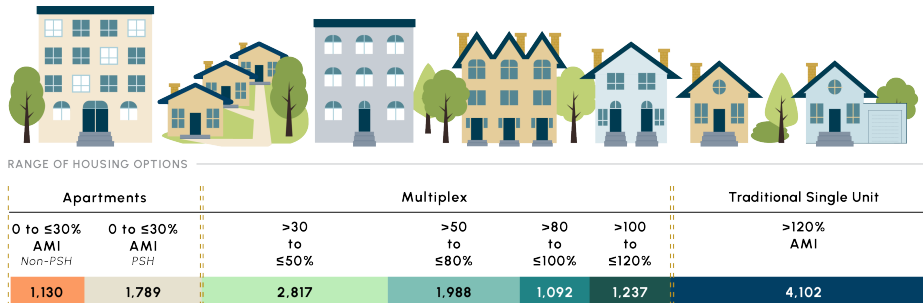
Figure H-2 shows Richland's 2046 housing targets. This estimate is provided by Benton County's housing needs allocation approach and is based on the area median income for Benton and Franklin counties (which is \$105,400 as of 2026).

To meet the housing target, Richland will need to plan for 14,155 additional homes, or an average of approximately 544 homes per year from 2020 to 2046.¹⁷ A substantial share of this need is specifically for very low-income households earning below 50% of the area median income (AMI). The targets call to create around 1,130 units for very low-income households earning less than 30% AMI (not Permanent Supportive housing), 1,789 permanent supportive housing units (PSH), 2,817 units for low-income households earning between 30 and 50% AMI, almost 2,000 units for low-income households earning between 50 and 80% AMI, and 2,329

¹⁶ A permanent chassis is a deep metal frame that makes them easier to move but more expensive to construct and make later alterations

¹⁷ Using 2020 as the baseline year, the analysis found that the city would need approximately 14,155 new housing units by 2046, or about 544 units per year. Because some housing has already been built since 2020, the total remaining housing need would be slightly lower than 14,155 housing units.

units for moderate-income households earning between 80 and 120% AMI by 2046. Lastly, the targets also include creating 52 emergency housing beds by 2046.^{18 19}



14,155 new homes will be needed over the next 20 years in the City of Richland

In addition, there will also need to be:

52 emergency housing beds (temporary housing)

Figure H-2. Richland Housing Target for 2046

Source: Benton County Population and Housing Needs Allocation (from Washington State Department of Commerce Housing for All Planning Tool (HAPT) PSH: Permanent Supportive Housing).

¹⁸ Permanent Supportive Housing (PSH): Subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and behaviors" RCW 36.70A.030(31)

¹⁹ Emergency beds are "Temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement." - Washington RCW 36.70A.030(14)

Figure H-3. Richland Housing Needs Target by Income Level, for 2046

	0-30% AMI		>30-50% AMI	>50-80% AMI	>80-100% AMI	>100-120% AMI	>120% AMI	TOTAL	EMERGENCY HOUSING BEDS
	Non-PSH	PSH							
2020 Existing Housing Supply Estimate	798	0	2,690	9,796	4,469	3,275	4,497	25,525	38
New Housing Needed by 2046	1,130	1,789	2,817	1,988	1,092	1,237	4,102	14,155	52
2046: Total Target Supply	1,928	1,789	5,507	11,784	5,561	4,512	8,599	39,680	90

Source: Benton County Population and Housing Needs Allocation, 2025; Washington Department of Commerce, Housing for All Planning Tool, 2026

These housing needs are highly unlikely to be met through market-rate production alone. New market-rate housing can help expand the overall supply. However, housing that serves lower-income households, people experiencing homelessness, and many moderate-income households will likely require subsidies, incentives, or other forms of support to be feasible.

Figure H-4: Population Change and Growth Rates

LOCATION	2015	2026	PERCENT CHANGE	AVERAGE ANNUAL GROWTH RATE
City of Richland	53,080	66,290	25%	2.0%
City of Kennewick	78,290	89,220	14%	1.2%
City of Pasco	68,240	85,560	25%	2.0%
City of West Richland	13,960	18,820	35%	2.0%
Benton County	188,590	223,200	18%	1.5%
Franklin County	87,150	105,900	22%	1.7%
State of Washington	7,061,410	8,176,300	16%	1.3%

Data Source: Washington State Office of Financial Management, 2015 and 2026

Richland's population is forecast to continue growing, with the medium projection scenario exceeding 90,000 by 2046. This projected growth underscores the need for sufficient housing production, including a range of housing types and price points to meet the needs of households at different life stages and income levels. Richland's median age is approximately 36 years, which is slightly older than Benton County's and surrounding jurisdictions.

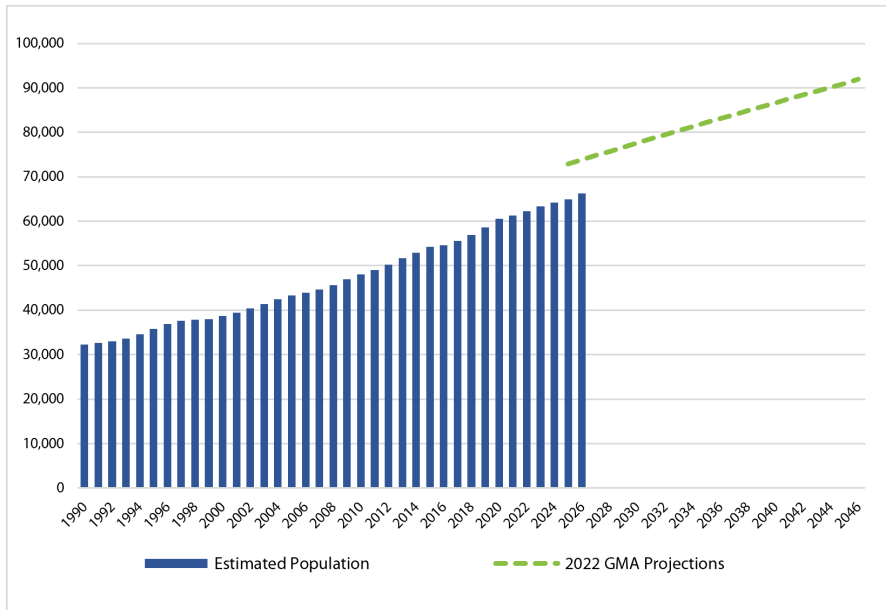


Figure H-5: City of Richland Population Projections

Data Source: Washington Office of Financial Management (OFM) Population Projections, 2006 to 2046

Housing Growth

Housing growth rates provide important context for understanding how the City's supply is changing over time. The number of housing units in Richland has been growing overall since 1990 from almost 15,000 housing units to almost 28,600 housing units in 2026 at an average rate of around 2% per year. The city added over 3,000 new units between 2020 and 2026 – an increase of around 12%. **Single-family homes continue to make up most of the City's housing stock, but recent growth also includes a meaningful number of multi- housing units.**

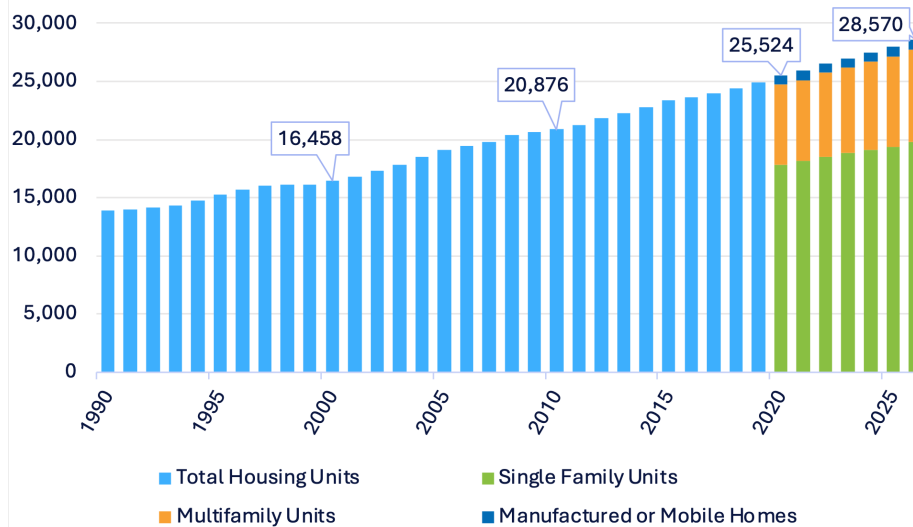


Figure H-6: Housing Unit Growth

Data Source: Washington Office of Financial Management (OFM) Official Population Estimates, 1990 to 2025

Note: OFM data did not differentiate by housing unit type prior to 2020, so only total figures are shown for 1990-2019.

Multi-family units (in structures with two or more units) account for around one-third of all new units built since 2020. Most of the remaining housing built in the 2020s has been conventional single-family homes, although Richland has seen more compact, single-detached dwellings with smaller lot sizes developed in recent years. About three percent of recent units have been manufactured housing.

Figure H-7. Total Housing Units by Housing Type, 2020 to 2026

YEAR	SINGLE FAMILY UNITS		UNITS IN MULTIFAMILY STRUCTURES		MANUFACTURED OR MOBILE HOMES	
	COUNT	SHARE	COUNT	SHARE	COUNT	SHARE
2020	17,800	70%	6,938	27%	786	3%
2021	18,163	70%	6,957	27%	785	3%
2022	18,537	70%	7,191	27%	798	3%
2023	18,881	70%	7,284	27%	803	3%
2024	19,101	70%	7,577	28%	803	3%
2025	19,374	69%	7,789	28%	803	3%
2026	19,790	69%	7,977	28%	803	3%

Data Source: Washington Office of Financial Management (OFM) Official Population Estimates, 2020 to 2026

HOUSEHOLD TENURE

Richland, consistent with the broader region, consists primarily of homeowners. Approximately 64% of Richland households owned their homes in 2024, while 36% rented. Approximately 37% of Richland's homeowners did not have a mortgage, similar to the county, but a slightly larger share than in the state (34%) or nearby Pasco (31%). Since 2014, renter households in Richland have grown faster than owner households, increasing by about 30% compared to 21% growth among owner households.

HOUSEHOLD SIZE TRENDS

Approximately 64% of Richland households consist of one or two people (Figure H-8). While the number of households has grown in each City over the past decade, the overall distribution of household sizes has remained relatively consistent. These patterns suggest that Richland's housing needs are not limited to large, detached homes. Smaller households may need or desire apartments, townhomes, condominiums, accessory dwelling units, cottages, or smaller single-family homes. At the same time, the presence of larger households means the City still needs rental and ownership options that serve these household sizes. **Overall, a broader mix of housing units could help Richland serve both smaller households and families that need more bedrooms.**

Figure H-9 below provides a general overview about how housing type, size, and tenure can change over a person's lifetime.

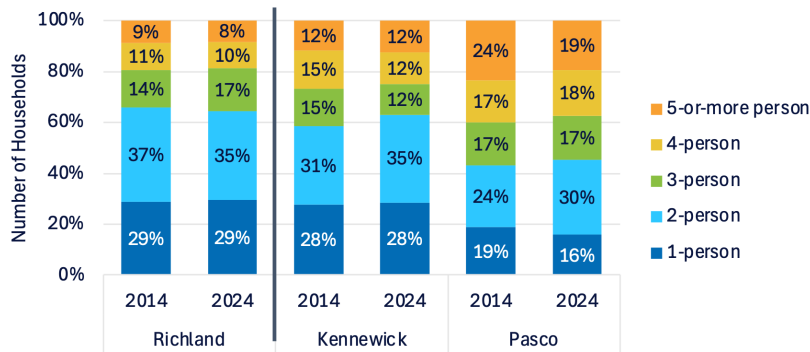


Figure H-8: Household Size

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024

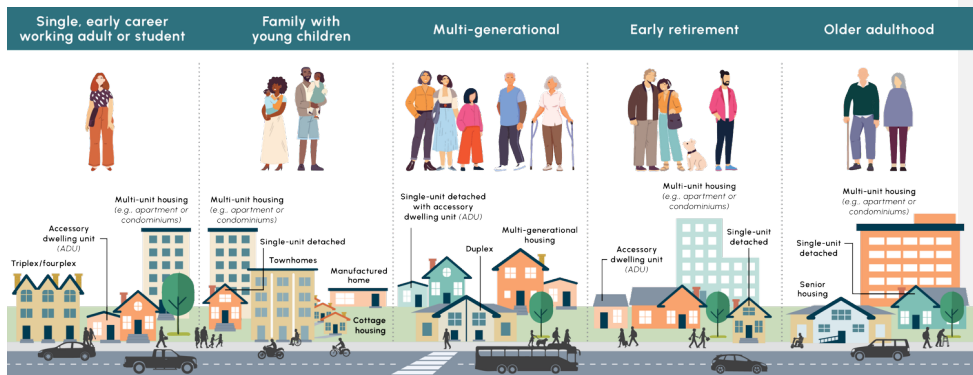


Figure H-9: Effect of Demographic Change on Housing Need

Data Source: ECONorthwest, adapted from AARP Public Policy Institute. Note: the early retirement and older adulthood categories also includes retirees.

Household Income and Cost Burden

This section provides an insight into household income levels of Richland and the broader region, as well as an assessment of the proportion of income is spent on housing-related costs. Household income is one of the primary factors shaping housing choice: higher-income households generally have more flexibility to absorb rising rents or home prices, while lower-income households have fewer options and are more likely to experience housing instability when costs increase.

Housing costs are usually the largest portion of a household's budget and typically include mortgage or rent payments, utilities, interest, and insurance. HUD's guidelines indicate that households paying more than 30% of their income on housing are experiencing a "cost burden" while those paying more than 50% of their income on housing are experiencing a "severe cost burden."

HOUSEHOLD INCOMES

Richland's median household income was around \$95,800 in 2024 based, higher than Kennewick and Pasco.²⁰ West Richland had a higher median household income, at around \$119,900.

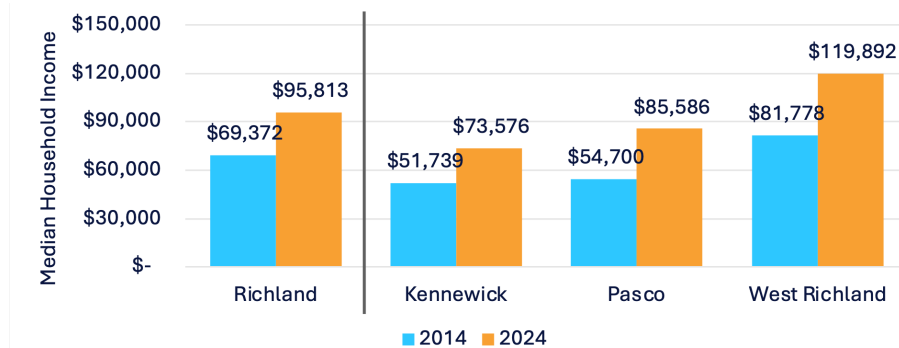


Figure H-10: Median Household Incomes, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024

Although Richland's median household income is relatively high for the region, the City includes households across a wide income range. Approximately 10% of households earned less than \$25,000, while another 12% earned between \$25,000 and \$50,000. At the upper end of the distribution, about 30% of households earned \$150,000 or more.

Median incomes also differ by race and ethnicity. As of 2024, the median household income was a bit lower for people of color, at \$84,000 for Black or African American households and around \$79,000 for Hispanic or Latino households compared to \$97,000 for white households.

²⁰ Median household income figures rely on 5-year ACS data from 2024, the most recent available year, and is based on all housing types and sizes. As of 2026, the median household income for Benton-Franklin counties for a family of four is \$105,400.

The City's income distribution indicates a need for housing priced across a broad range of incomes, especially for low-income families. While household income has increased in Richland and throughout the region, the housing costs have generally increased more.

Around 37% of households in Richland are cost-burdened, and over half of those are severely cost-burdened (20% of all households). Although this still constitutes a notable share of Richland's population, it represents a smaller share of households than in Kennewick or Pasco, where over half of the households are cost burdened. Furthermore, unlike in Richland, where the share of cost-burdened households has slightly decreased since 2014, both Pasco and Kennewick have seen an increase in this share. Richland's lower share of cost-burdened households suggests that housing prices within the city are more closely aligned with household incomes than in other cities in the region. However, the fact that over one-third of households in Richland spend more than 30% of their income on rent suggests that the City still has a shortage of lower-cost units.

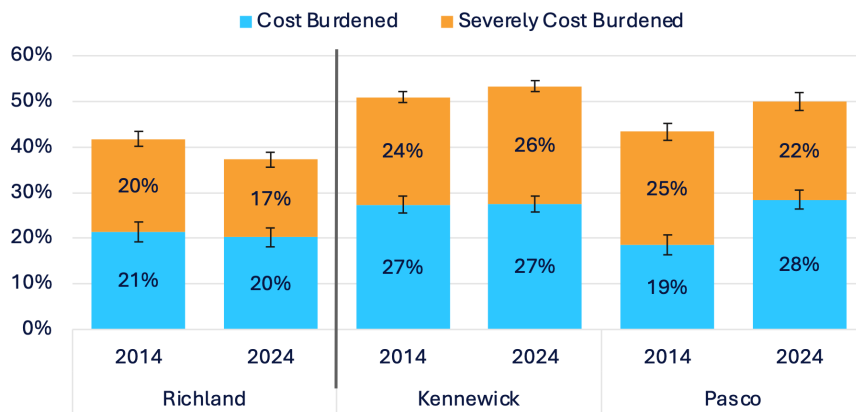


Figure H-11: Rental Cost Burden, 2014 and 2024

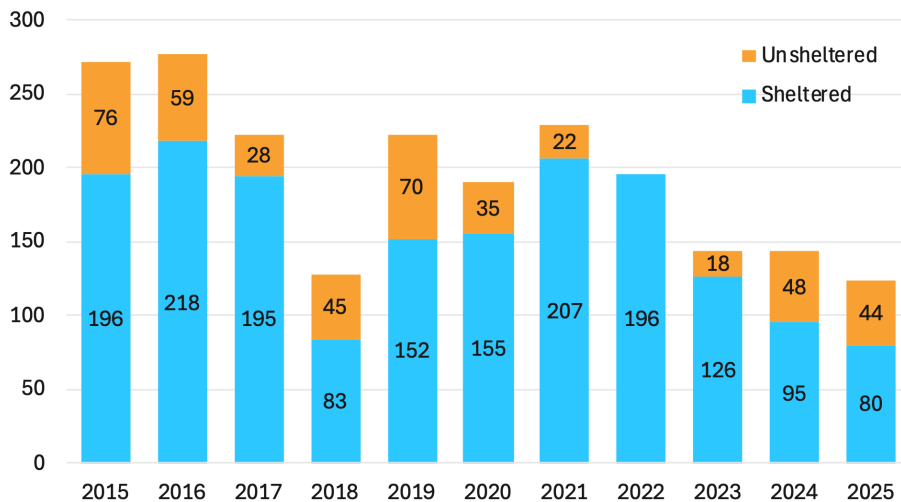
Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024

In Richland and throughout the region, a much larger share of renters are cost-burdened than homeowners (32% versus 15%) (Figure H-11). This may be attributed to homeowners having higher incomes on average than renters. However, this data suggests Richland has a greater shortage of lower-cost rentals than owner-occupied housing. A larger share of Hispanic households than White households are cost burdened.²¹

²¹ Based on the 2018-2022 Consolidated Planning and Comprehensive Housing Affordability Strategy (CHAS) data from HUD, the most recent available at the time of this report, an estimated 33 percent of non-Hispanic White households in Richland were cost burdened, compared to 44 percent of Hispanic/ Latino households. There was not enough available cost burden data for other people of color.

HOUSEHOLDS EXPERIENCING HOMELESSNESS

In 2025, an estimated 124 individuals in the Benton-Franklin Metropolitan Statistical Area (MSA) were experiencing homelessness, according to HUDs Point in Time Count²² (Figure H-12). Almost two-thirds of these people were living in some sort of shelter or other type of structure, while the remaining were unsheltered. The estimated number of people experiencing homelessness in the MSA has steadily decreased since 2021, when almost twice as many people were experiencing homelessness (an estimated 229 people). In 2015, there were an estimated 272 people experiencing homelessness in the area. Although the downward trend in the overall number of people experiencing homelessness is promising, the number of people who were unsheltered has increased since 2021. Furthermore, because they rely on visual observations, the official Point-in-Time counts often undercount. While a small number overall, the region still has a need for housing for those experiencing homelessness.



²² HUD requires local Continuums-of Care (CoCs) to conduct an annual Point-in-Time (PIT) count of people experiencing sheltered and unsheltered homeless. The count is based on observations from a single night in January and can may be an understatement of the total number of people experiencing homelessness.

Figure H-12: Individuals Experiencing Homelessness (Regional Estimate), 2015-2025

Source: Benton-Franklin Trends, 2015-2025

Housing Stock Characteristics

While the prior sections focus on *household* characteristics, this section focuses on the *physical characteristics of housing* in Richland, including the number of bedrooms, the number of units in a structure, and the age of the housing stock. This data, when analyzed alongside household and population characteristics, provides further insight into the city's current housing conditions and sheds light on Richland's current and future needs.

DIFFERENT TYPES OF HOUSING

Figure H-13 shows the distribution of different housing types in Richland. Different housing types are often associated with different tenure patterns: apartments are more often renter-occupied, while detached homes are more often owner-occupied. Townhouses, condominiums (condos), and smaller multifamily buildings typically fall somewhere in between, depending on price point, location, and building age.

In Richland, the majority (62%) of households live in single-unit dwellings, similar to the rates in Kennewick (59%) and Pasco (74%). The second most prevalent housing type in Richland is multifamily structures with two to four units, representing 14% of the City's occupied housing units, followed by multifamily structures with more than 20 units (13%). Overall, Richland's multifamily housing stock represents just over one-third of its housing units (36%), a share similar to Kennewick (35%) but higher than Pasco (21%).

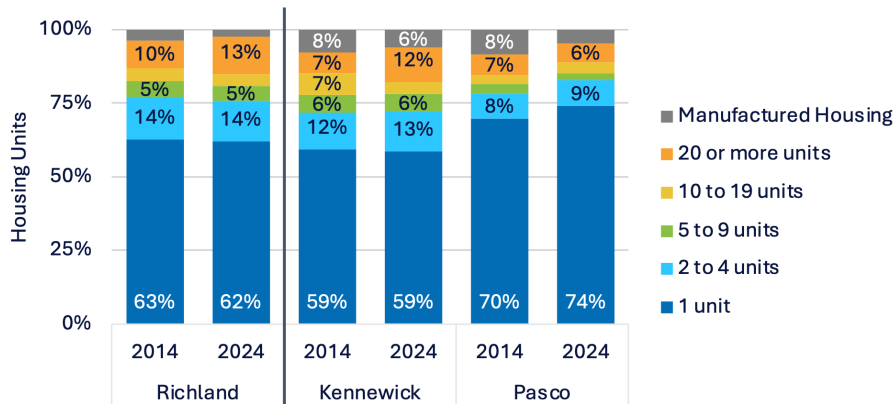


Figure H-13: Housing Types by Units in Structure, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024

In 2024, approximately 2.2% of Richland's housing stock was manufactured housing. Manufactured and modular homes can provide more affordable homeownership options for households, particularly in predominantly single-family cities like Richland. Manufactured homes provide an important source of affordable homeownership, offering lower housing costs than comparable site-built homes while supporting valued features such as private outdoor space, community connections, and living in a stand-alone unit (not sharing a wall with another dwelling). Manufactured homes are costly and difficult to relocate, consequently residents, many of whom are older adults on fixed incomes, are particularly vulnerable to rising park fees and displacement if parks are redeveloped.

AGE OF HOUSING

Richland now has a broad mix of older and newer housing units. Approximately 40% of the inventory of single-family dwellings in Richland were built between 2000 to 2024. Around 37% of single-family dwellings are more than 50 years old (built before 1975). Looking at other housing types, the majority of two to four-unit dwellings were built before 1960 (85%), whereas most residential condominiums have been built between 2000 to 2024 (55%).

Even though much of Richland has some newer housing stock, particularly in the southwest and northwest sections of the city, there likely remains a growing need to repair, rehabilitate, or maintain the City's aging housing stock, particularly since one-third of the total housing units are over 50 years old. As shown in **Figure H-16**, **most of the newer housing has been built further from the Central Business District, and the majority of homes in the central part of the city are at least 50 years old. Most of the planned new housing is also outside of the city center. The City might be interested in supporting new or rehabilitated units closer to the Central Business District.**

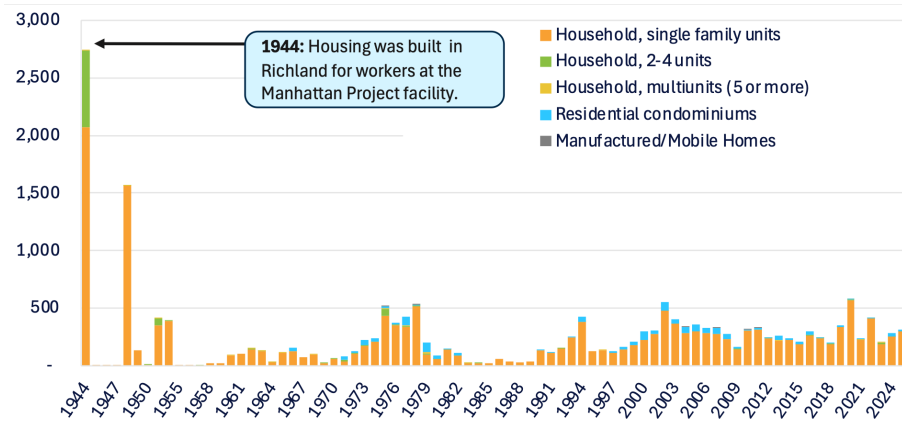


Figure H-14: Year Built by Housing Type (by Parcel), 1944 to 2024

Benton County Assessor, 2026

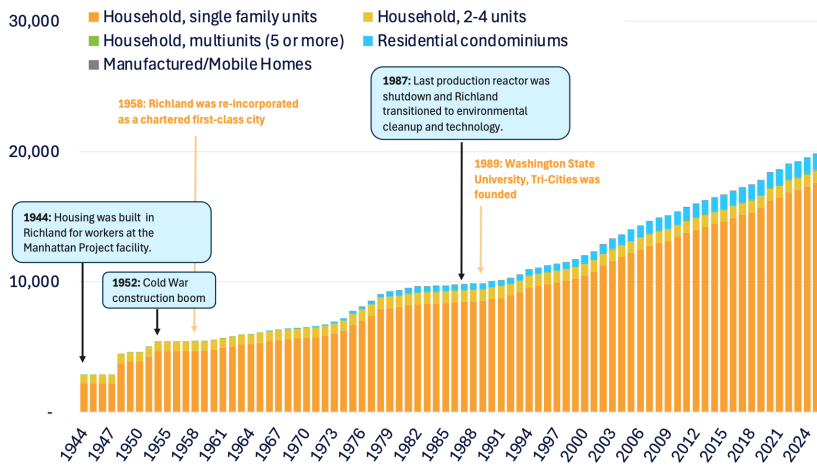


Figure H-15: Total Housing Units, 1944 to 2024

Data Source: Benton County Assessor, 2026

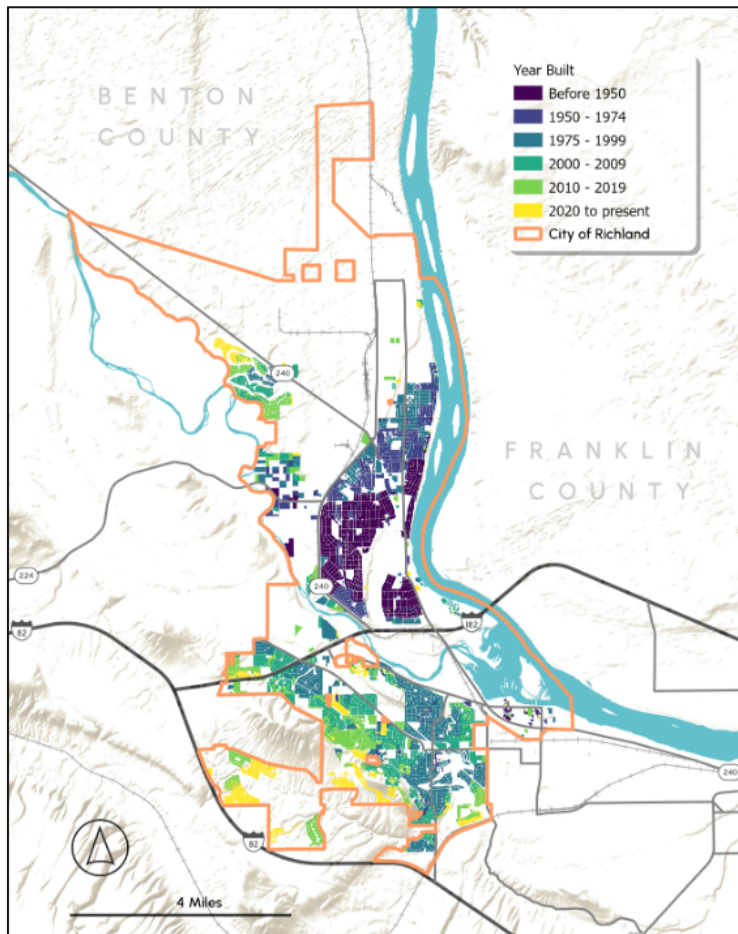


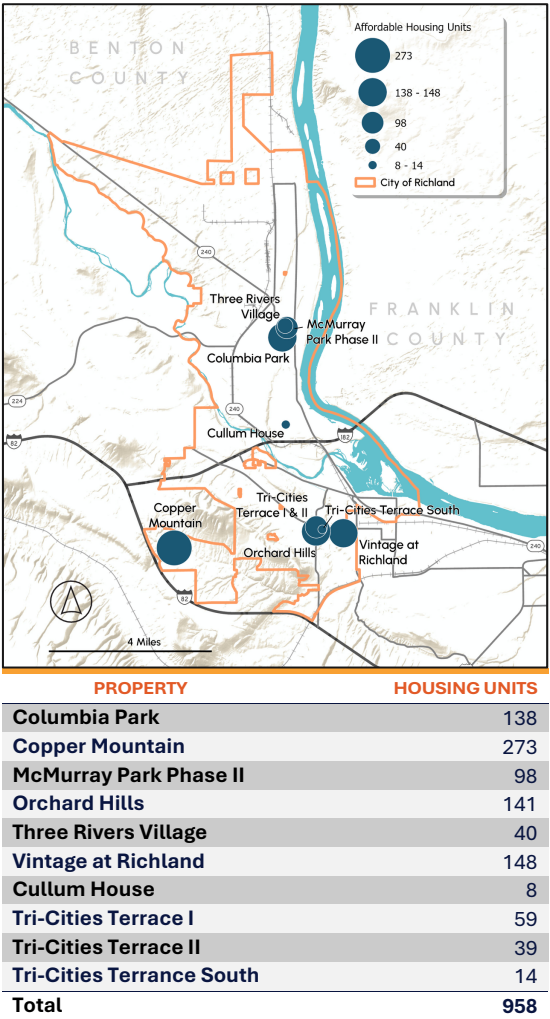
Figure H-16: Map of Housing Age, 2026

Data Source: Benton County Assessor, 2026. Note: Each parcel may contain multiple housing units.

REGULATED AFFORDABLE HOUSING STOCK

Housing units reserved for households earning less than a certain percentage of the AMI (often 50 or 60%, depending on the program) through a subsidy or through deed restriction, are known as regulated affordable housing units. The rents are typically capped so that these households spend no more than 30% of their income on rent. Richland has approximately 960 of these income-restricted units, shown below.

Figure H-17: Income Restricted Housing Units, 2026



Data Source: City of Richland

HOUSING FOR PEOPLE EXPERIENCING HOMELESSNESS

As explained above in *Households Experiencing Homelessness*, the City and region have a number of individuals experiencing homelessness. HUD’s Homeless Management Information System

(HMIS) data provide additional context on how households experiencing housing instability interact with the regional homeless service system (Figure H-18). In 2023, rapid rehousing accounted for the largest number of HMIS entries, with 332, followed by emergency shelter with 200 and homelessness prevention with 150.

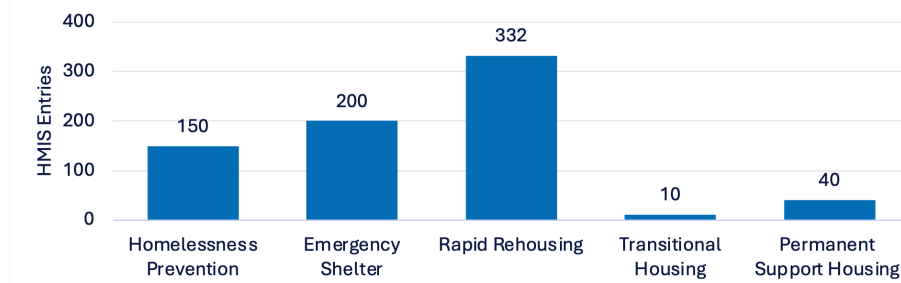


Figure H-18: Benton County Information System Counts by Housing Type, 2023

Data Source: 2025-2029 Tri-Cities HOME Consolidated Plan; 2023 Washington State Homeless System Performance County Report Card. Note: Homeless Management Information System (HMIS)

Although Richland currently has an inventory of approximately 60 beds in transitional housing facilities and around 80 beds in permanent supportive housing facilities (Figure H-19), both transitional and permanent supportive housing had far fewer entries: 10 and 40, respectively. In 2026 a private developer announced plans to build a three-story facility with 122 assisted living apartments and 30 memory care residences on about four acres near the intersection of Steptoe and Tapteal.

This suggests that the regional service system is primarily oriented toward immediate shelter, prevention, and short-term rehousing interventions, while longer-term housing supports appear more limited. While this may reflect program availability rather than total need, the relatively low number of permanent supportive housing indicates a potential gap for households that need ongoing rental assistance, services, or case management to remain stably housed. Furthermore, some supportive housing units serve specific populations and therefore are not available to all residents. For example, certain developments may be restricted to single adults or require residents to meet sobriety criteria.²³

²³ The Housing Resource Center that enters the HMIS data had funding primarily for emergency housing (short term motel stay) and do not provide funding for transitional and permanent supportive housing.

Figure H-19: Shelter, Transitional, Emergency, and Permanent Supportive Housing Inventory in Richland

HOUSING TYPE OR PROPERTY	UNITS	NUMBER OF BEDS
Emergency shelters	0	0
Transitional housing		
4th Dimension	2	10
Oxford Houses	8	71
Seasons Housing	1	
Permanent Supportive Housing		
Elijah Family Homes	8	27
Domestic Violence Services	10	35

Data Source: City of Richland

GROUP, SENIOR, AND INSTITUTIONAL HOUSING

Addressing housing needs for those aged above 60 will require a range of different housing opportunities. For example, the over 80-year-old cohort dominates the assisted living and more intensive care sector while new or near-retirees may prefer aging in place or communities, or active, age-targeted communities. New or near retirees aging in place/communities often benefit from housing accommodations designed or upgraded with visitability or Universal Design standards.²⁴

The over 80-year-old cohort tends to need housing with more specialized senior housing accommodations. Group, senior, and institutional housing refers to housing that serves residents with specific care, accessibility, supervision, or service needs. Senior housing includes independent or assisted living options for older adults, ranging from age-restricted apartments to facilities that provide daily support. Group housing generally refers to shared residential settings for people who may need supportive services, such as adults with disabilities, people in recovery, or youth in care. Institutional housing includes facilities that provide a higher level of care or supervision, such as skilled nursing facilities, memory care facilities, and residential treatment facilities.

Figure H-20 shows Richland's inventory of special senior, group, and institutional housing types, which have a combined total of approximately 700 units. The figure shows the number of units in each, along with the year built and the types of services provided. In Richland, this inventory primarily serves older adults, with facilities offering a range of support from low-income senior housing to independent living, assisted living, memory care, respite care, nursing, rehabilitation, and long-term care. Assisted living is the most common service type among the listed facilities, while several facilities provide specialized memory care for residents with Alzheimer's disease or other forms of dementia.

These housing options are particularly relevant given Richland's age profile. As previously noted, Richland has a higher median age than its peer cities and surrounding counties, and nearly one in five residents (17%) is age 65 or older.

²⁴ Universal design is the principle that people of all ages and ability levels can use buildings, products, and the built environment without adaptation. Examples of universal design in housing include wide doorways, adequate maneuvering space in kitchens and bathrooms, switches and handles that are easy to reach and operate, and slide-out shelves. These and other relatively simple features enable people to remain in their homes even as their needs change over time. Visitability features are a subset of universal design that addresses access to the main part of the house to ensure that visitors with mobility limitations can access the homes of friends and relatives. Visitability features include wide doorways, a zero-step entrance, and no-stair access to a toilet facility with adequate space for maneuverability. (AARP, www.aarp.org/livable-communities/housing/info-2020/homefit-guide.html).

Figure H-20: Richland Group, Senior, and Institutional Housing Stock

NAME	YEAR BUILT	SERVICES	Units
Brookdale Richland Assisted Living	1988	Assisted living	159*
Bonaventure of Tri-Cities	2008	Independent/ assisted living, memory care	97
Brookdale Torbett Memory Care	2000	Memory care	48*
Guardian Angel Homes	2012	Assisted living, memory care, respite care	96*
Life Care Center of Richland	1966	Nursing, rehabilitation, long-term care	104*
Luther Senior Center	1960	Low-income senior housing	74
Brookdale Meadow Springs Assisted Living	1998	Assisted living	108*

Data Source: Benton County Assessor, 2026; CoStar; WA Health Care Association. Note: Number of licensed beds.
 Note: This table only includes units that are completed. The City of Richland recently received a business license application for a "Sober Living House."

In 2024, an estimated 14 percent of Richland households included at least one person with a physical, cognitive, sensory, or other disability, reflecting demand for housing that is accessible, adaptable, and located near services.

CITY OF RICHLAND HOUSING PROGRAMS AND STRATEGIES

The City administers several programs, funded primarily through the Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) that address displacement and supports the development, preservation, and protection of affordable housing. These are organized below under the following approaches.

The City provides **down payment assistance to help lower-income households purchase homes** (households earning 80% or below the Area Median Income). As of June 2026, 11 households have received down payment assistance so far this year.

The City also participates in a HOME-funded project that combines rehabilitation with rental assistance. Under HOME funding requirements, these activities cannot displace existing households, and assisted projects must bring units up to code.

The City's Owner-Occupied Rehabilitation Program and its CDBG- and HOME-funded rehabilitation activities help existing residents remain in their homes by financing repairs and rehabilitation that help address health and safety concerns. The waitlist for this program is typically minimal, with four applicants on the waitlist as of June 2027, as funding for 2026 was exhausted in June of 2026. Between the CDBG and HOME programs, the City completed roughly 25 rehabilitation projects per year, with the majority serving the City's alphabet homes, which was identified as having potential high displacement risk. The HOME-funded rehabilitation requires that units be brought fully up to code (e.g., all safety issues in the home to be fully addressed), while CDBG-funded rehabilitation allows for a specific issue to be addressed.

The City's CDBG and HOME programs are structured to minimize permanent displacement to the greatest extent possible. Temporary displacement if necessary, during the rehabilitation process is paid with CDBG or HOME funding. The City reserves the right to reject an activity or to require a subrecipient to provide non-federal relocation assistance if an activity would cause permanent displacement. Where displacement cannot be avoided, activities are governed by the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), which requires relocation assistance for displaced persons and the replacement of housing units lost. Required steps include relocation advisory services, a minimum of 90 days' written notice to vacate before requiring possession, reimbursement for moving and reestablishment expenses, and payments for the added cost of renting or purchasing comparable replacement housing.

The URA also governs when a housing unit must be replaced. A unit only needs to be replaced if it is both a substandard unit not suitable for rehabilitation and has been vacant for over a year. Consequently, housing units in standard condition, housing units suitable for rehabilitation, and housing units legally occupied within the past year must be replaced. For voluntary acquisitions, an owner-occupant who voluntarily sells to a homebuyer is not eligible for relocation assistance, provided the seller is informed in writing of the property's fair market value (as determined by a Washington State-licensed and certified appraiser), and the buyer does not have the power of eminent domain. For owner-occupied rehabilitation, temporary relocation of five working days or less is at the owner's cost; the program pays for relocation exceeding five working days, and any unforeseen permanent relocation entitles the owner to assistance under the URA. HOME-funded activities carry comparable protections. They cannot displace other households and cannot result in foreclosure; however, this is typically infrequent in practice.

Other Housing Related Policy and Strategies

- **Middle housing (HB 1110, 2023):** New state law requires Richland to allow duplexes through sixplexes (density scaled to lot/zone) within six months of its comprehensive plan update which is a significant lever for "missing middle" supply beyond ADUs.
- **ADU (HB 1337, 2023):** HB 1337 requires Richland to allow at least two ADUs per qualifying residential lot and prohibits owner-occupancy requirements within urban growth areas. Richland's ADU code is expected to be updated as part of the Comprehensive Plan update.
- **Emergency housing, shelters, and permanent supportive housing (E2SHB 1220, 2022 — Ordinance 2022-19):** Richland adopted zoning code definitions to allow these uses across residential and commercial zones without special permitting, removing a regulatory barrier for shelter/Permanent Supportive Housing development.
- **Permitting improvements:** Richland Development Services has moved to paperless plan submittal and piloted virtual residential inspections to improve efficiency.

Housing Element Goals and Policies

Goal HE.1: Provide a range of housing densities, sizes, and types for all income and age groups of the Richland community, in support of housing targets.

- HE.1a Ensure that the comprehensive plan and development regulations allow for a variety of housing types, sizes, densities, and lot configurations such as small lots, multi-family housing, middle housing, town homes, mixed-use development, cluster development, live/work housing, co-housing, accessory dwelling units, cottage housing, single room occupancy units, zero lot line and similar subdivisions, and planned unit developments.
- HE.1b Encourage mixed-use developments with apartments and condominiums above commercial uses in the City's Central Business District (CBD) and key community centers such as Island View, Richland Innovation Center, and Columbia Point. Support increased housing density in residential-designated areas that immediately surround the CBD, using standards to ensure harmony with the character and scale of the existing neighborhood.
- HE.1c Promote and provide incentives (such as zoning/rezoning, revised regulations, and provision of infrastructure) for infill development and redevelopment in areas with existing or planned utility infrastructure to increase the housing capacity on vacant and underutilized spaces (such as parking lots). For example, the city could inventory underutilized opportunity areas and develop strategies to support new infill development or conversion of housing to provide more ADUs, middle housing units, and diverse multi-unit development in areas that have adequate urban services.
- HE.1d Allow and regulate manufactured homes in the same way as site-built homes and create a new zoning district for manufactured/mobile homes, evaluating where these zones could be strategically added to help preserve affordable housing and measures that might be needed to update aging units.
- HE.1e Implement policies consistent with Washington state law to protect tenant homeowners living in a manufactured community, including but not limited to, specific requirements if a community ownership is transferred or if a community is closed, including early noticing, options to purchase, and relocation assistance.²⁵

Deleted: single family housing

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²⁵ State law now requires that Manufactured Home Park (MHP) owners provide twelve months' notice to the Department of Commerce when they plan to close the park. Commerce can then provide support to impacted tenants through the Manufactured/Mobile Home Relocation Assistance Program. The Manufactured/Mobile Home Landlord-Tenant Act (RCW 59.20) specifically RCW 59.20.080(1)(e) (Notice of Closure), RCW 59.20.325 (Notice of Opportunity to Compete to Purchase), RCW 59.20.335(8) (6-Month Status Update), and RCW 59.21.030 (Closure Notice Requirements). RCW 59.20.370 (Prohibition on Certain

HE.1f Plan for an adequate supply of land in appropriate land use designations and zoning categories to accommodate increased housing capacity, promote housing targets, while accommodating other commercial, industrial, and open space needs of the City.

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HE.1g Promote accessory dwelling units (ADU) in residential districts and examine incentives to implement in support of ADUs (such as pre-approved plans for ADUs).

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HE.1h Review permit entitlement and permit approvals and maintain an effective code enforcement program, supporting consistency with state law, and gaining input from stakeholders.²⁶

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HE.1i Promote community development strategies supporting the creation of walkable neighborhoods, particularly housing within walking distance of schools, transit service, businesses, medical facilities, and community amenities.

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HE.1j Increase the supply of accessible or senior housing with accessible design standards in strategic locations and by establishing incentives and policy/program strategies that allow residents to “age in place” or “age in community” in Richland.

HE.1k Promote increased housing choices, especially for smaller households, to increase the housing capacity to better match diverse needs. Evaluate regulatory changes that would allow for more middle housing, tiny homes, and other types of housing to help increase the availability of housing options affordable for low to moderate income households, seniors, and small households.

Commented [A1]: Do they want to support tiny homes (usually no larger than 400 sf) and examine ways to improve their code to allow for them?

HE.1l Educate the community about housing needs and programs such as by providing educational materials and user-friendly guidance on available programs, incentives, and permit process support.

Commented [A1R2]: Yes I think tiny homes would initially be allowed in manufactured home communities / RV parks and then evaluate other locations.

HE.1m Address the needs of the unhoused population by working with local agencies and non-profits that provide services to this community.

HE.1n When siting new development, take into consideration accessibility to community facilities and services, including schools, transit, recreational facilities and areas, and parks particularly for lower-and moderate-income families and individuals.

Rent Increases) places limits on annual lot rent increases in Manufactured Home Communities. For more information, see Manufactured/Mobile Home Relocation Assistance Program (Commerce).

²⁶ HB 1293, described under RCW 36.70A.630, requires cities planning under GMA to use clear and objective standards for most development and expedited review for qualifying affordable housing projects. ESB 5729, passed in 2026, is intended to streamline local permit review by requiring jurisdictions to accept professionally certified permit applications under certain conditions. A few improvement areas to consider: faster plat approvals and increased access to build-ready lots.

Goal HE.2: Improve and preserve affordable housing opportunities for lower-income individuals, households, and first-time homebuyers.

- HE.2a Expand the supply of affordable units by promoting owner- and renter-occupied housing throughout the City, consistent with Comprehensive Plan, and helping to promote housing targets and gaps in meeting housing needs.
- HE.2b Promote the establishment of mixed-income housing developments and mixed-use developments that provide both affordable housing and economic opportunities throughout the City consistent with Comprehensive Plan.
- HE.2c Sustain or improve the quality of existing affordable housing stock by supporting rehabilitation of housing units by current owners.
- HE.2d Evaluate the potential use of development incentives for the construction of attainable housing including the Multifamily Tax Exemption (MFTE) program, density bonuses, waived fees, or other incentives and test out different variations and their associated costs and benefits helping to support overall housing production and affordable housing targets.²⁷
- HE.2e Coordinate with public and private sector partners to provide a supply of affordable housing for low-income households, such as with the Kennewick Housing Authority, faith-based organizations, and other non-profit groups to explore opportunities with possibly establishing housing navigator services and acquiring funding to provide more affordable housing such as Washington's Housing Trust Fund and federal subsidies to implement affordable housing projects.
- HE.2f Monitor both regulated and naturally occurring affordable housing units that are at risk of redevelopment and displacing low to moderate income households.
- HE.2g Create a regional housing committee to improve housing planning coordination across the region. Collaborate with housing partners, other jurisdictions, and community and health focused organizations to coordinate efforts, improve service delivery, and create a more cohesive response across the region. This committee could meet quarterly and develop a strategy to secure grants and loans by agencies, private developers, and nonprofit organizations that are tied

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²⁷ Richland established Targeted Urban Areas (TUA) in 2023 to allow qualifying manufacturing and industrial developments to receive preferential tax treatment to help encourage investment and job creation. Richland's TUA is in the northern section of the city, encompassing the Northwest Advanced Clean Energy Park, the Horn Rapids Industrial Park and land around the Richland Airport. New industrial or manufacturing facilities in the TUA are exempt from paying city property taxes on the value of manufacturing improvements for 10 years if they create at least 25 living wage jobs (currently defined as those that pay \$23 an hour) if the properties carry an assessment of at least \$800,000.

to the provision of permanent supportive housing, emergency shelter beds, transitional housing, and other housing serving at-risk populations.

HE.2h Evaluate the implementation of different anti-displacement strategies particularly in areas with higher risk of displacement of low-to-moderate income housing and to address potential racially disparate impacts, including but not limited to, acquisition and financing of existing affordable housing and multi-unit housing, landlord education and resource hub for renters, fair access policies, supporting community land trusts (or other alternative ownership models) and third-party purchases of existing affordable housing units, notice of intent to sell ordinance, tenant relocation assistance, tenant opportunity to purchase, and right to return policies for promoting home ownership.

HE.2i Evaluate potential surplus public property that could be transferred, leased, or disposed of for affordable housing, transitional housing, or emergency housing consistent with state law and survey the City's real estate holdings to identify potential affordable housing opportunities.²⁸

HE.2j Ensure code and fee structure (such as proportionate impact fees for middle housing) is consistent with ADU, middle housing, and relevant state laws.

HE.2k Support first-time home buyers by prolonging and expanding down-payment assistance programs (particularly for underserved populations), supporting home buying education programs, exploring a community land trust pilot serving first-time home buyers, and other identified program and policies that facilitate and support homeownership opportunities (such as measures to increase housing supply and diversity) and strive to increase opportunities to own a home.

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Goal HE.3: Implement the current version of the Tri-Cities Consolidated Plan.

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HE.3a Continue to support the rehabilitation of older housing stock to maintain affordable (low to moderate income) housing options and consider expanding need-based rehabilitation assistance through partnerships.

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HE.3b Preserve and expand the supply of affordable housing by funding and supporting priority needs such as low to moderate income households, housing for elderly, families with children, and public housing.

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Deleted: homeowner and renter rehabilitation.

HE.3c Expand access to transitional housing and shelters including low-barrier shelter options especially for currently underserved populations (limited options persist for families, men and adolescent boys) and explore possibly providing services needed by transitional populations such as navigator and language translation support.

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²⁸ More information about state provisions associated with surplus public land used for affordable housing is provided under: RCW 39.33.015. Under RCW 39.33.105, cities can discount or gift land they own for "public benefit," defined as affordable housing (up to 80% AMI).

HE.3d Support individuals and families by investing in housing, rental assistance, and supportive services to increase self-sufficiency.

Deleted: HE.3e -Support increased access to broadband opportunities to address the digital equity gap.¶

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Goal HE.4 Encourage the maintenance and preservation of existing housing stock and support maintenance and improvements in existing residential neighborhoods.

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HE.4a Encourage reinvestment in older residential neighborhoods particularly those providing rentals and housing for low to moderate-income households and support the revitalization of such neighborhoods by keeping the streets and other municipal systems in good repair and by supporting the addition of public facilities that serve all income levels such as more sidewalks, trees and streetscaping, streetlights, wayfinding features, and gathering spaces.

- a) Encourage the formation of local improvement districts or Tax Increment Financing districts and evaluate target areas supporting more intense housing development or mixed-use development including residential units. These districts can be established to help fund infrastructure such as sidewalks or streetscape improvements that helps revitalize areas.

HE.4b Implement the City's affordable housing and weatherization programs.

- a) Continue to participate in the Tri-Cities HOME Consortium.
- b) Continue to use federal Community Development Block Grant and HOME funds for housing rehabilitation and first-time homebuyer opportunities.

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HE.4c Expand and accommodate non-profit and public agencies' efforts to purchase, construct, and rehabilitate housing to meet the affordable and other housing needs of the community.

Deleted: HE.4c -Continue to allow accessory dwelling units in single-family residential districts.¶

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HE.4d Implement prioritized safety improvements in residential neighborhoods and encourage the use of the City's Crime Prevention Through Environmental Design (CPTED) program in developments.

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HE.4e Continue to participate in the City Police Department's Crime Resistant Community Living (CRCL) Program, which provides free training for property owners and landlords to help provide safe, crime-resistant communities for all residents.

Deleted: HE.4e -Strive to increase the rate of owner-occupancy over time through City's assistance programs.¶

HE.4f -Maintain a strong code enforcement program.¶

HE.4g -Update and implement the Island View Master Plan to include mixed-use housing and multi-family residential rehabilitation and construction.¶

HE.4f Evaluate minimum property maintenance standards to ensure the safety and suitability of existing housing stock, while ensuring that enforcement does not jeopardize housing stability for residents.

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HE.6a -Support the revitalization of neighborhoods by improving and supporting public facilities that serve neighborhoods of all income levels.

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Goal HE.6 Improve public facilities and transportation infrastructure to support housing needs and improved quality of life.

HE.6a Consistent with the City's Parks, Recreation, and Open Space Comprehensive Plan, improve parks and recreation facilities in targeted neighborhoods by supporting a range of improvements to existing or new parks such as building bicycle and walking paths, improving public restrooms, landscaping, or installing play equipment.

HE.6b Maintain quality design integrating targeted landscaping in new developments to support place-making community design.

HE.6c Identify priority areas to invest in sewer and water extensions and transportation infrastructure to catalyze housing development around amenities such as transit infrastructure and community centers with pedestrian facilities, to reduce vehicle miles traveled.

HE.6d Examine opportunities to reduce or eliminate minimum requirements for off-street automobile parking spaces for residential uses and mixed-use development particularly in areas with regular public transit service, consistent with state law and considering the implementation of a local transportation demand management programs and shared or district parking, while maintaining accessibility and temporary and loading zone parking for businesses possibly through exemptions. This allows developers to provide off-street parking based on anticipated demand and market considerations.²⁹

Deleted: Goal HE.5 Ensure compatibility of new residential developments with established neighborhoods and the community.[¶]
HE.5a Maintain quality design and landscaping in the new developments.[¶]

Commented [A2]: Policy about minimum parking standards or are they not ready for that? Let's ask Nicole

Commented [A2R2]: Nicole please advise - this could be restricted to certain areas with transit service. Could encourage TDM, shared parking, exemptions for ADA and loading zones, etc.

Commented [A2R3]: YES - The city recently removed parking standards in the CBD. All the things you listed could make sense there.

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Deleted: Support beautification of our community by integrating art into public facilities in creative and engaging ways.

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²⁹ New state laws including RCW 36.70A.817 and the Parking Reform and Modernization Act (RCW 35.21.994, RCW 35A.21.445, RCW 36.01.397) limit minimum parking requirements for a variety of housing types including market rate single and multifamily development, affordable housing, and housing using specified construction methods, among others.



DRAFT HOUSING TECHNICAL REPORT

NOTE: This is a technical report that will support the Housing Element.

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Introduction

The City of Richland is one of three principal cities comprising the Tri-Cities Metropolitan Statistical Area (MSA), along with Pasco and Kennewick. With over 300,000 people, the Tri-Cities MSA encompasses all of Benton and Franklin Counties and is the third-largest metropolitan area by population in the state of Washington. The Tri-Cities MSA has experienced notable population growth and housing development over the past decade. The area sits strategically between several large markets, including Portland, Seattle, Yakima, Spokane, and Boise. The region is attracting newcomers for a variety of reasons, such as a desirable quality of life, temperate climate and big skies, a relatively lower cost of living, excellent schools, and a wide array of recreational amenities.

The first and largest housing construction trend in Richland occurred in the early 1940s, when the federal government began building homes for workers at the newly commissioned Hanford Site, developed as part of the Manhattan Project during World War II. More than 4,300 of these homes, known as the “[alphabet homes](#),” were constructed between 1943 and 1945. No subsequent period has seen a comparable level of housing development. Nonetheless, housing production has remained steady over the past 50-plus years. Aside from a period of limited construction in the 1980s, the city has averaged several hundred new units annually. While almost all the new construction has been single-family units, there has been a small but steady influx of new multifamily construction, including two- to four-plex dwellings (also referred to as middle housing), since the 1970s.



Richland currently has a moderately varied mix of housing types. More than one-third of the homes are over 50 years old, and while some may have been remodeled, many may need upgrades. Most of the planned new housing is outside of the city center but is reaching the limits of urban expansion due to barriers associated with being adjacent to other cities and due to growing up against important industrial businesses and agricultural lands. Richland has seen a steady inventory of new housing, though some parts of the city have seen almost no new residential construction in recent years.

Richland residents, on average, tend to be wealthier and more educated compared to those elsewhere in the region. Yet despite Richland residents' relative affluence and the predominance of owner-occupied households, many households still face disproportionately high housing costs relative to their incomes. Furthermore, many of the homes priced for those with moderate incomes are at least 50 years old and may need rehabilitation. This wasn't always the case; costs have dramatically shifted over the past 10 to 15 years, fueled in part by the nationwide housing crisis.

Background

This housing technical report explores demographic and household trends in Richland, as well as housing conditions, prices, and relevant programs and policies. This data helps inform the housing needs of current and future residents, including the affordability level, type, size, and tenure of new housing. The report can help inform potential policies and programs the City can take to address these needs.

COUNTYWIDE PLANNING POLICIES

Countywide planning policies provide the regional framework for local comprehensive plans under Washington’s Growth Management Act. These policies are developed by counties, in coordination with cities, to ensure that local plans are consistent on issues that cross jurisdictional boundaries, including urban growth, public facilities, transportation, housing, and economic development. For housing, countywide planning policies must consider the need for affordable housing for all economic segments of the population and establish parameters for how that need is distributed across jurisdictions. In Richland, the Benton County County-Wide Planning Policies help connect the City’s housing element to broader regional and state growth planning targets and provide context for the City’s housing-need targets, land-capacity planning, and strategies to accommodate future housing demand.

The 2025–2029 Tri-Cities Assessment of Fair Housing identifies a low supply of affordable housing as one of the primary impediments to fair housing in the region, noting that increasing rents and low vacancy rates make it difficult for residents to secure stable housing.¹ The Benton County 2025-2030 Local Homeless Plan similarly identifies rapid population growth, rising housing costs, limited affordable housing supply, and stagnant wages as major contributors to housing instability and homelessness throughout the region.² Richland’s 2024-2026 Strategic Plan further reinforces housing as a major local priority. Community surveys and focus groups conducted as part of the planning process identified rising home prices, limited housing diversity, and zoning constraints as key concerns. Participants emphasized the need for a broader range of housing options, including “middle housing” types such as duplexes or townhomes. Expanding these options would be particularly valuable for younger residents, workforce households, and people who cannot afford higher-cost housing. In response, the City included “Increased housing availability” as a central outcome under its Focused Development strategic priority. The plan establishes targets to increase overall housing units by 4 percent (about 1,150 units) and increase attainable housing units by 5 percent by 2026.³

Several housing programs and policies are being utilized to influence Richland’s housing landscape. The 2025–2029 Tri-Cities Assessment of Fair Housing reports all three cities, including Richland, permit attached and detached accessory dwelling units (ADUs), maintain inclusive family definitions within zoning codes, and allow group homes of up to six residents. Richland also

¹ Tri-Cities HOME Consortium, 2023. *2025–2029 Tri-Cities Assessment of Fair Housing*.

² Benton & Franklin Counties Housing Continuum of Care, 2020. *Benton & Franklin Counties Five-Year Plan to End Homelessness, 2020–2025*.

³ City of Richland, 2023. *2024-2026 Strategic Plan*.

administers an owner-occupied rehabilitation program funded through Community Development Block Grants (CDBG) and HOME Investment Partnership Programs funding to address health and safety concerns for low-income households. In addition, the Tri-Cities HOME Consortium administers a regional Down Payment Assistance Program Center to support homeownership opportunities for lower-income households.⁴

Housing Targets

The Washington Growth Management Act (GMA) requires the Washington State Department of Commerce to project future housing needs based on population targets. The analysis projects needed units for moderate, low, very low, and extremely low-income households, as well as emergency housing, emergency shelters, and permanent supportive housing. Based on guidance from Commerce, counties work with their municipalities to quantify the projected housing needs and allocate them to each jurisdiction in the county.

Table H-1 shows Richland’s 2046 housing targets. This estimate is provided by Benton County’s housing needs allocation approach. This is based on the area median income for Benton and Franklin counties (which is \$105,400 as of 2026).

To meet the housing target, Richland will need to plan for 14,155 additional homes, or an average of approximately 544 homes per year from 2020 to 2046.⁵ A substantial share of this need is specifically for very low-income households earning below 50% of the area median income (AMI). The targets call to create around 1,130 units for very low-income households earning less than 30% AMI (not Permanent Supportive housing), 1,789 permanent supportive housing units (PSH), 2,817 units for low-income households earning between 30 and 50% AMI, almost 2,000 units for low-income households earning between 50 and 80% AMI, and 2,329 units for moderate-income households earning between 80 and 120% AMI by 2046. Lastly, the targets also include creating 52 emergency housing beds by 2046.^{6 7}

⁴ Tri-Cities HOME Consortium.

⁵ Using 2020 as the baseline year, the analysis found that the city would need approximately 14,155 new housing units by 2046, or about 544 units per year. Because some housing has already been built since 2020, the total remaining housing need would be slightly lower than 14,155 housing units.

⁶ Permanent Supportive Housing (PSH): Subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and behaviors” RCW 36.70A.030(31)

⁷ Emergency beds are “Temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.” - Washington RCW 36.70A.030(14)



RANGE OF HOUSING OPTIONS

Apartments		Multiplex				Traditional Single Unit
0 to ≤30% AMI Non-PSH	0 to ≤30% AMI PSH	>30 to ≤50%	>50 to ≤80%	>80 to ≤100%	>100 to ≤120%	>120% AMI
1,130	1,789	2,817	1,988	1,092	1,237	4,102

14,155 new homes will be needed over the next 20 years in the City of Richland

In addition, there will also need to be:

52 emergency housing beds (temporary housing)

Figure H-1: Richland Housing Needs Target by Type and Income Level, 2026 to 2046

Source: Benton County Population and Housing Needs Allocation (from Washington State Department of Commerce Housing for All Planning Tool (HAPT). PSH: Permanent Supportive Housing.

Table H-1: Richland Housing Needs Target by Income Level, for 2046

	< 30% AMI		30% to 50% AMI	50% to 80% AMI	80% to 100% AMI	100% to 120% AMI	> 120% AMI	TOTAL	EMERGENCY HOUSING BEDS
	Non-PSH	PSH							
2020 Existing Housing Supply	798	0	2,690	9,796	4,469	3,275	4,497	25,525	38
New Housing Needed by 2046	1,130	1,789	2,817	1,988	1,092	1,237	4,102	14,155	52
2046: Total Target Supply	1,928	1,789	5,507	11,784	5,561	4,512	8,599	39,680	90

Source: Benton County Population and Housing Needs Allocation, 2025; Washington Department of Commerce, Housing for All Planning Tool, 2026

These housing needs are highly unlikely to be met through market-rate production alone. New market-rate housing can help expand the overall supply. However, housing that serves lower-income households, people experiencing homelessness, and many moderate-income households will likely require subsidies, incentives, or other forms of support to be feasible.

The City of Richland is not alone in its requirement to augment the housing supply, particularly for moderate- to low-income households. As shown the figure below, the City of Kennewick has comparable housing need targets.

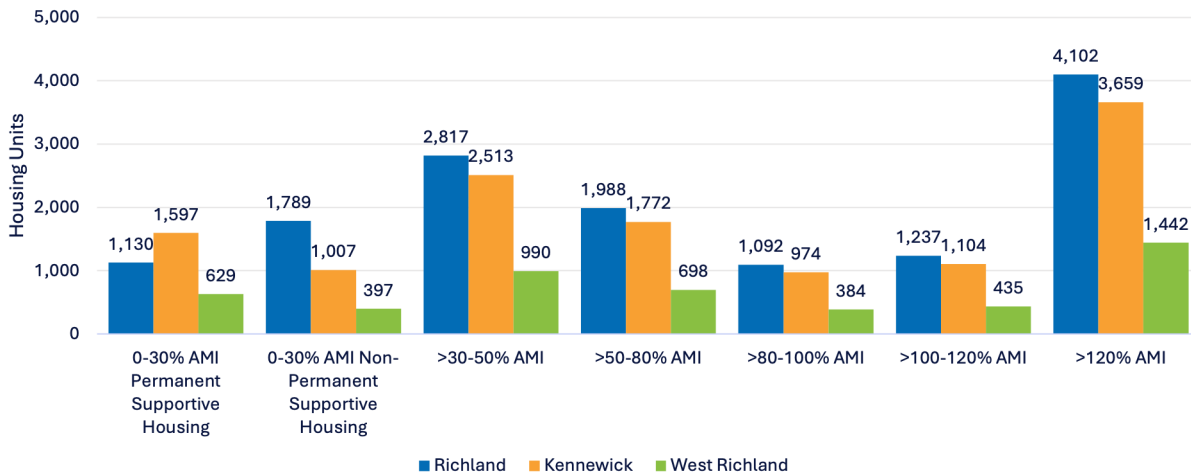


Figure H-2: Housing Needs Targets, Benton County Jurisdictions, Total Units 2026-2046

Data Source: 2025 based on Commerce HAPT; Benton County neighboring jurisdictions.

Community Profile

Understanding Richland's demographics and recent trends helps contextualize the city's current and future housing needs. This section provides an overview of key factors such as population, age, and race, and highlights how they might inform housing needs.

POPULATION CHANGES

As of 2026, Richland has approximately 66,000 residents. As shown in the figure below, the number of people living in Richland has grown steadily since 2000, although Richland's population size remains smaller than that of Kennewick and Pasco. **Between 2015 and 2026, Richland grew by about 25%, similar to the City of Pasco but faster than Kennewick, which grew by about 14%.**

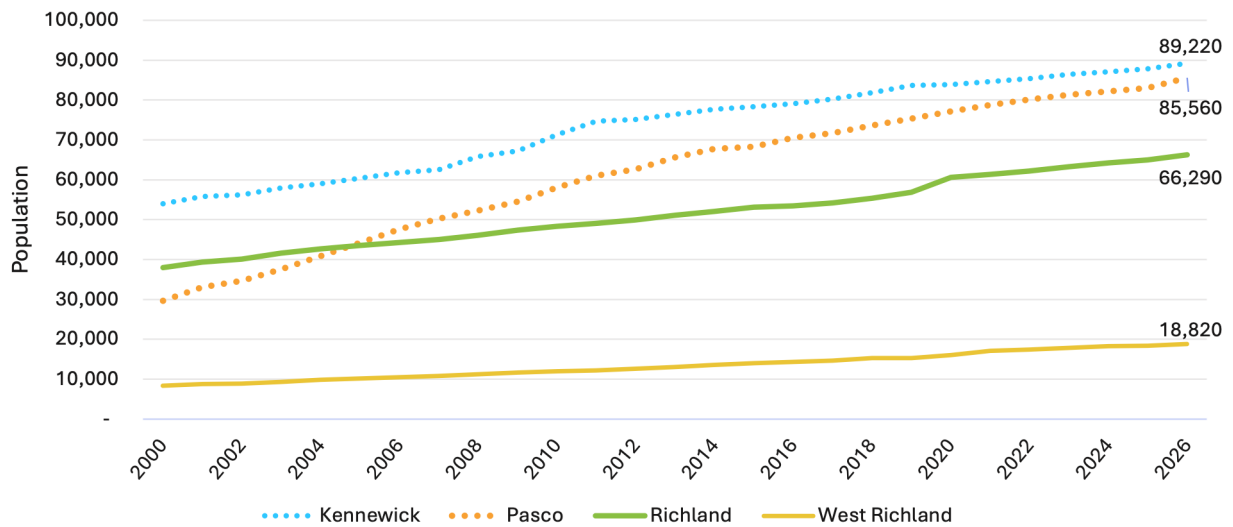


Figure H-3: Population Growth, 2000-2026

Data Source: Washington State Office of Financial Management, 2000-2026

Table H-2: Population Change and Growth Rates

LOCATION	2015	2026	PERCENT CHANGE	AVERAGE ANNUAL GROWTH RATE
City of Richland	53,080	66,290	25%	2.0%
City of Kennewick	78,290	89,220	14%	1.2%
City of Pasco	68,240	85,560	25%	2.0%
City of West Richland	13,960	18,820	35%	2.0%
Benton County	188,590	223,200	18%	1.5%
Franklin County	87,150	105,900	22%	1.7%
State of Washington	7,061,410	8,176,300	16%	1.3%

Data Source: Washington State Office of Financial Management, 2015 and 2026

Richland's population is forecast to continue growing, with the medium projection scenario exceeding 90,000 by 2046. This projected growth underscores the need for sufficient housing production, including a range of housing types and price points to meet the needs of households at different life stages and income levels.

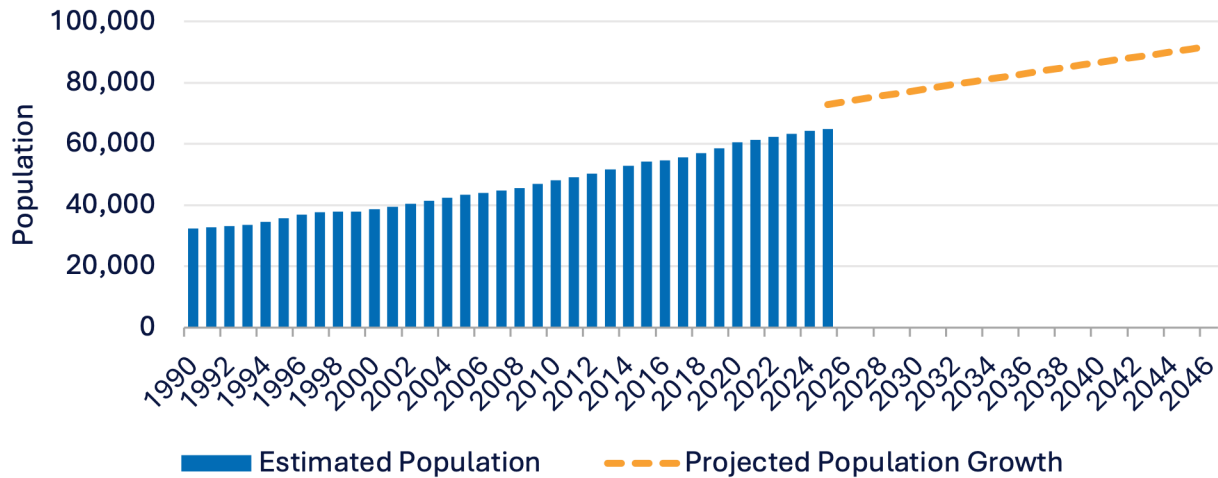


Figure H-4: City of Richland Population Projections

Data Source: Washington Office of Financial Management (OFM) Population Projections, 1990 to 2046

AGE TRENDS

Age distribution data helps to evaluate how local housing needs may vary, as the population shifts among different life stages. For example, younger adults may be more likely to seek rental housing, smaller units, or lower-cost options that provide access to jobs and services. At the other end of the spectrum, older adults may need smaller, lower-maintenance, accessible housing, or housing located near health care, services, transportation, and daily amenities. Richland's median age is approximately 36 years, which is slightly older than Benton County's and surrounding jurisdictions.

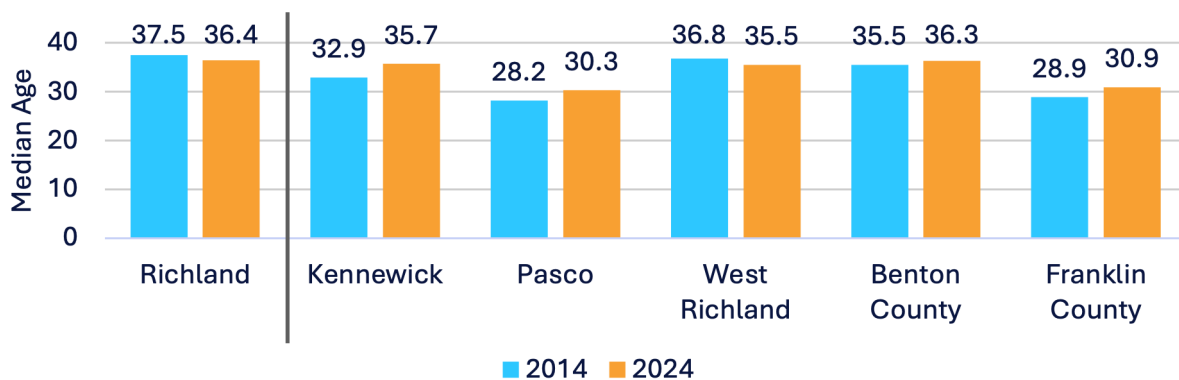


Figure H-5: Median Age, 2014 and 2024.

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Richland's relatively older median age is partly driven by its slightly higher share of senior residents aged 65 and older (17%) and lower share of youth under 18 (24%) (Figure H-6). As the city's older adult population grows, demand is likely to increase for homes that support aging in place or for

housing that better fits residents' needs. This may include single-level homes, accessible apartments, accessory dwelling units, cottages, assisted living, and memory care facilities. More ownership and rental options that support aging in place could also help older households downsize from larger homes while remaining in Richland, gradually making more larger homes available to families. The need for senior housing is discussed further in the *Group, Senior, and Institutional Housing* section below.

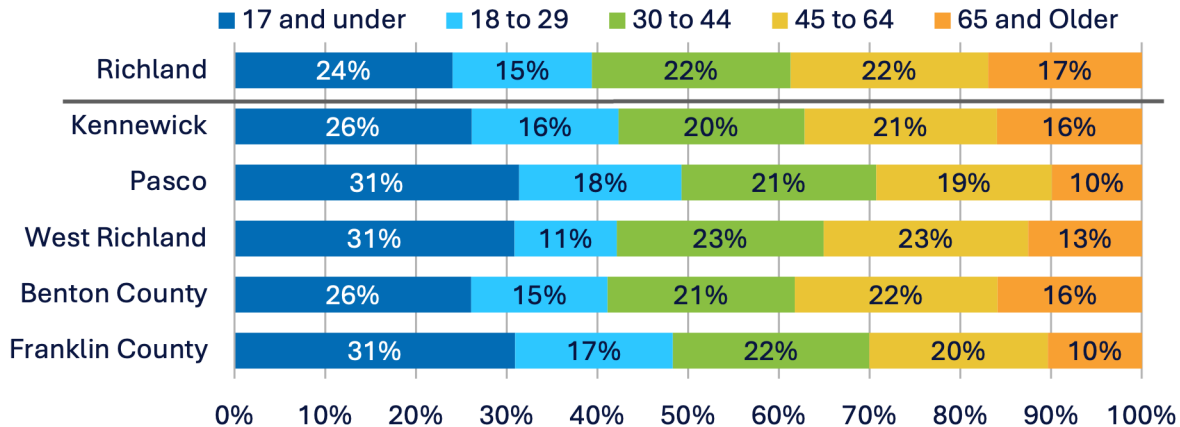


Figure H-6: Age Distribution, 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2020-2024

RACE AND ETHNICITY DEMOGRAPHIC TRENDS

Richland's population was majority white (~77%) in both 2014 and 2024, followed by Hispanic or Latino, then Asian alone (Figure H-7). The share of Hispanic or Latino residents has increased substantially over the past decade, from approximately 9 percent in 2014 to 16 percent in 2024. This change is also reflected in Richland's peer cities and counties, suggesting a shift in the region's overall demographics.

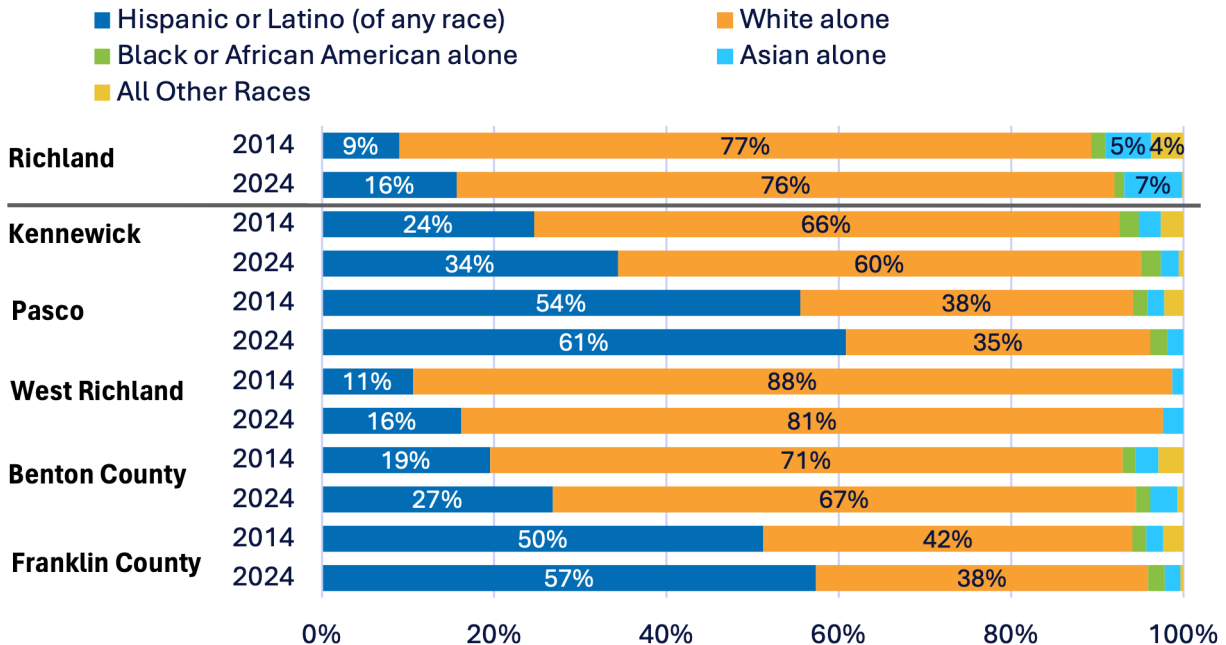


Figure H-7: Race and Ethnicity Distribution, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024

Housing Growth

Housing growth rates provide important context for understanding how the City's supply is changing over time. Figure H-8 shows the increase in overall housing since 1990, differentiating by unit type after 2020, as OFM data did not differentiate by housing unit type prior to 2020. **Single-family homes continue to make up most of the City's housing stock, but recent growth also includes a meaningful number of multifamily units.**

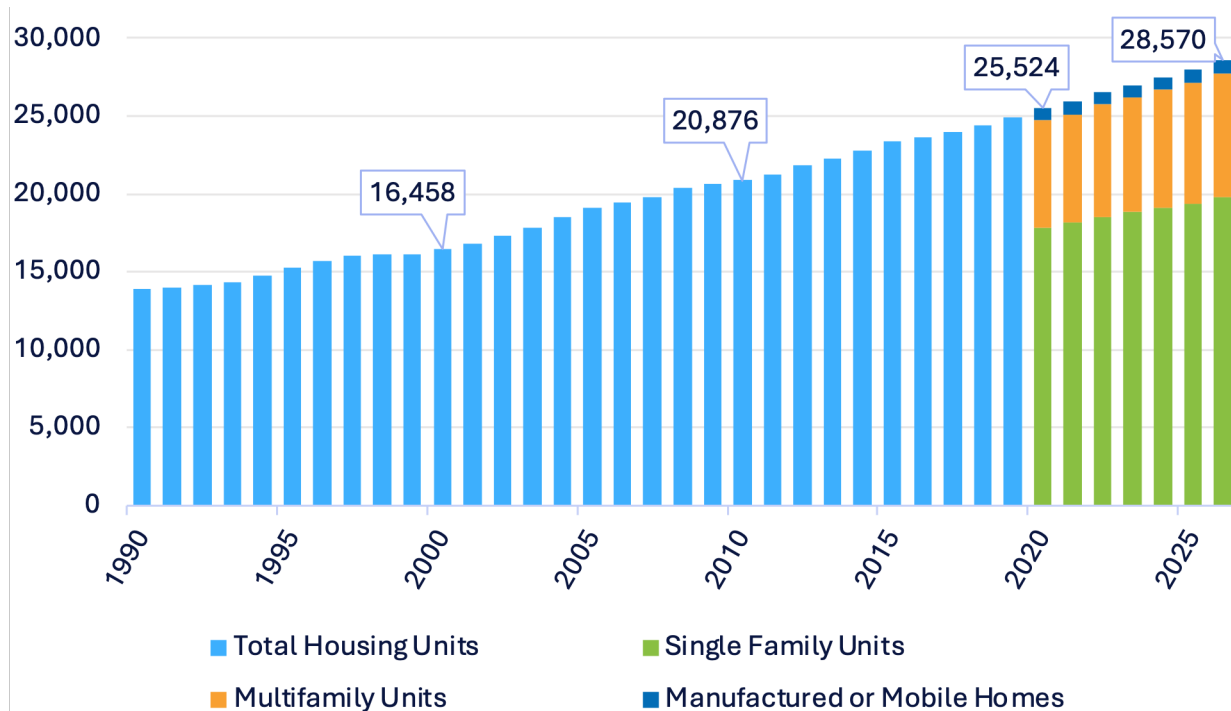


Figure H-8: Housing Unit Growth

Data Source: Washington Office of Financial Management (OFM) Official Population Estimates, 1990 to 2026

Note: OFM data did not differentiate by housing unit type prior to 2020, so only total figures are shown for 1990-2019.

Multi-family units account for just over one-quarter of all new units built since 2020. Most of the remaining housing built in the 2020s has been conventional single-family homes, although Richland has seen more compact, single-detached dwellings with smaller lot sizes developed in recent years. About three percent of recent units have been manufactured housing.

Table H-3. Total Housing Units by Housing Type, 2020 to 2026

YEAR	SINGLE FAMILY UNITS		UNITS IN MULTIFAMILY STRUCTURES		MANUFACTURED OR MOBILE HOMES	
	COUNT	SHARE	COUNT	SHARE	COUNT	SHARE
2020	17,800	70%	6,938	27%	786	3%
2021	18,163	70%	6,957	27%	785	3%
2022	18,537	70%	7,191	27%	798	3%
2023	18,881	70%	7,284	27%	803	3%
2024	19,101	70%	7,577	28%	803	3%
2025	19,374	69%	7,789	28%	803	3%
2026	19,790	69%	7,977	28%	803	3%

Data Source: Washington Office of Financial Management (OFM) Official Population Estimates, 2020 to 2026.

Household Characteristics

Household characteristics help show how residents use the existing housing stock and what types of housing may be needed as the city grows. This section summarizes the number, size, and composition of households in Richland, highlighting changes over the past decade and comparisons with other cities in the region.

TOTAL HOUSEHOLDS

Richland had approximately 25,200 households in 2024. Although Richland has fewer residents than Pasco, it has slightly more households, indicating Richland's average household size is smaller. The number of households in Richland increased by about 24% between 2014 and 2024, a rate broadly similar to nearby peer cities.

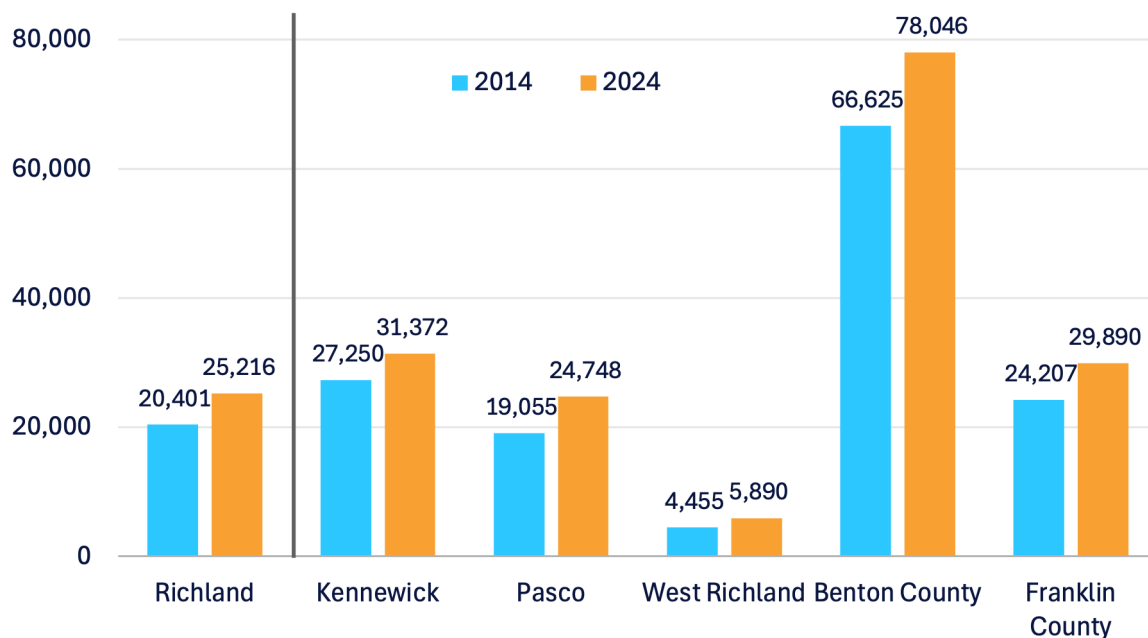


Figure H-9: Total Households, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024

HOUSEHOLD TENURE

Richland, along with the broader region, consists primarily of homeowners. Approximately 64% of Richland households owned their homes in 2024, while 36% rented. Although the ownership rate is slightly lower than Benton County overall, it still indicates that ownership remains the dominant tenure in the city. Since 2014, however, renter households in Richland have grown faster than owner households, increasing by about 30% compared to 21% growth among owner

households. Conversely, Pasco experienced stronger growth in owner households, which increased by 31% compared to a nine percent increase in renter households over the same period.

This growth in the share of renter households may result from increased apartment production, changing household preferences, or households remaining in the rental market longer as ownership costs rise. While homeownership continues to be important for long-term stability and wealth building, a growing renter population means the city will also need enough rental housing at a range of price points, including units affordable to lower- and moderate-income households.

Table H-4: Household Tenure, 2014 and 2024

CITY	TENURE	2014		2024		COUNT % CHANGE
		COUNT	SHARE	COUNT	SHARE	
Richland	Owner	13,479	66%	16,250	64%	21%
	Renter	6,922	34%	8,966	36%	30%
Kennewick	Owner	16,748	61%	19,229	61%	15%
	Renter	10,502	39%	12,143	39%	16%
Pasco	Owner	12,639	66%	17,556	71%	39%
	Renter	6,416	34%	7,192	29%	12%
West Richland	Owner	3,717	83%	4,914	83%	32%
	Renter	738	17%	976	17%	32%
Benton County	Owner	45,285	68%	52,779	68%	17%
	Renter	21,340	32%	25,267	32%	18%
Franklin County	Owner	16,252	67%	21,209	71%	31%
	Renter	7,955	33%	8,681	29%	9%

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

HOUSEHOLD SIZE TRENDS

Approximately 64% of households in Richland consist of one or two people (Figure H-10). This is a similar share to Kennewick (63%) but almost 20 percentage points higher than in Pasco (46%), which has higher shares of 3- and 4-person households. Conversely, 8% of Richland households have five or more people, compared to 12% in Kennewick and 19% in Pasco. While the number of households has grown in each City over the past decade, the overall distribution of household sizes has remained relatively consistent.

These patterns suggest that Richland's housing needs are not limited to large, detached homes. Smaller households may need or desire apartments, townhomes, condominiums, accessory dwelling units, cottages, or smaller single-family homes. At the same time, the presence of larger households means the city still needs rental and ownership options that serve these household sizes. **Overall, a broader mix of housing units could help Richland serve both smaller households and families that need more bedrooms.**

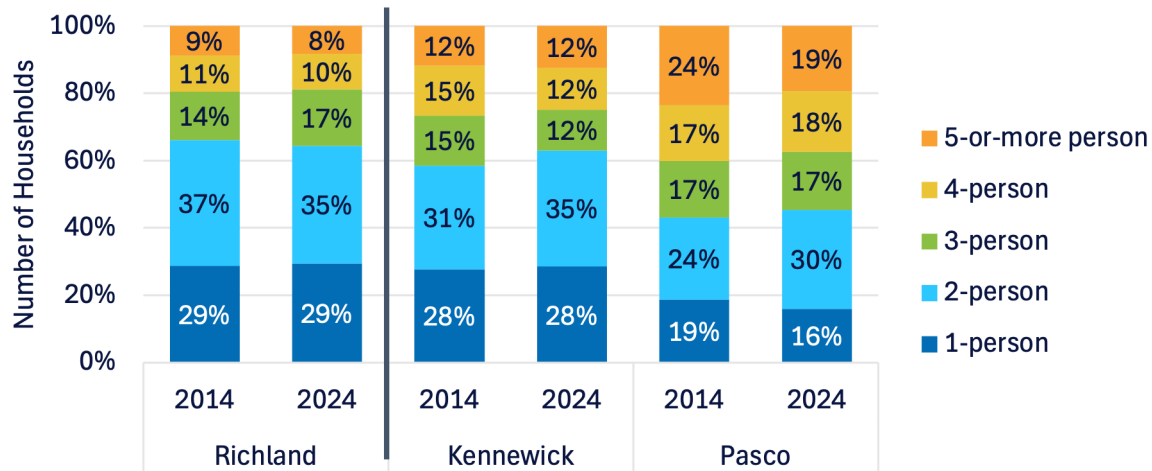


Figure H-10: Household Size

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Figure H-11 below provides a general overview of how housing type, size, and tenure can change over a person's lifetime.

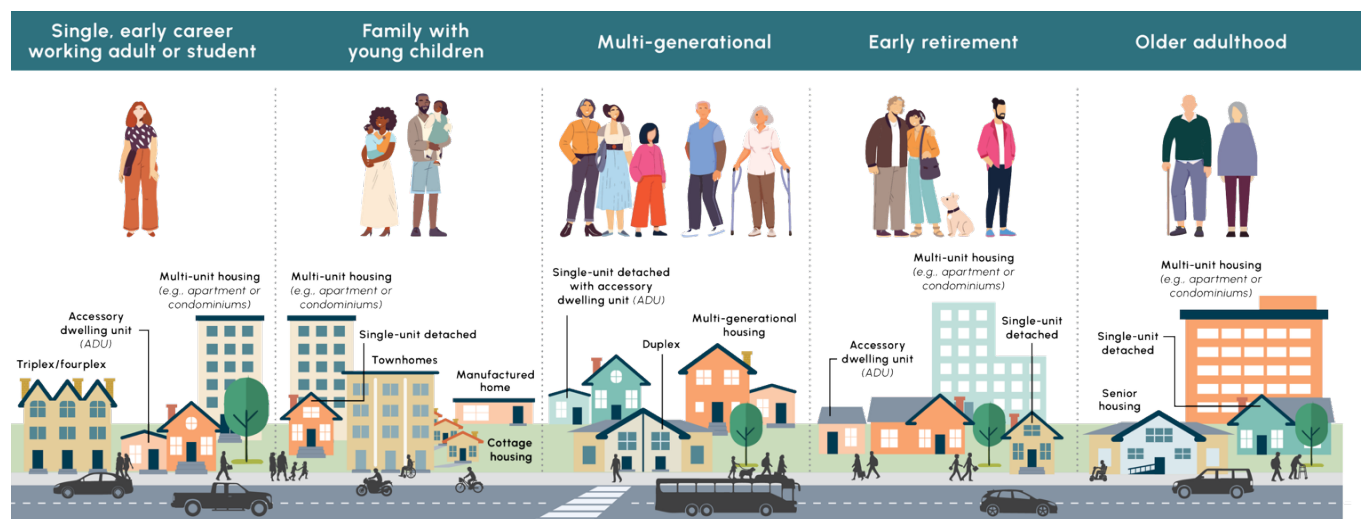


Figure H-11: Effect of Demographic Change on Housing Need

Data Source: ECONorthwest, adapted from AARP Public Policy Institute. Note: the early retirement and older adulthood categories also includes retirees.

Overcrowding is defined by the U.S. Census Bureau as households with more than one person per room (excluding bathrooms, kitchens, hallways, and porches). Overcrowding often occurs when the high cost of housing forces a household to double up with another household or live in a smaller housing unit to afford food and other basic needs. As of 2024, about 2% of households in Richland were overcrowded (Figure H-12). Although this is a small share and lower than in

Kennewick (5%) or Pasco (7%), the fact that one in fifty households lives in overcrowded conditions may still suggest a gap in affordable housing, particularly for some larger families.

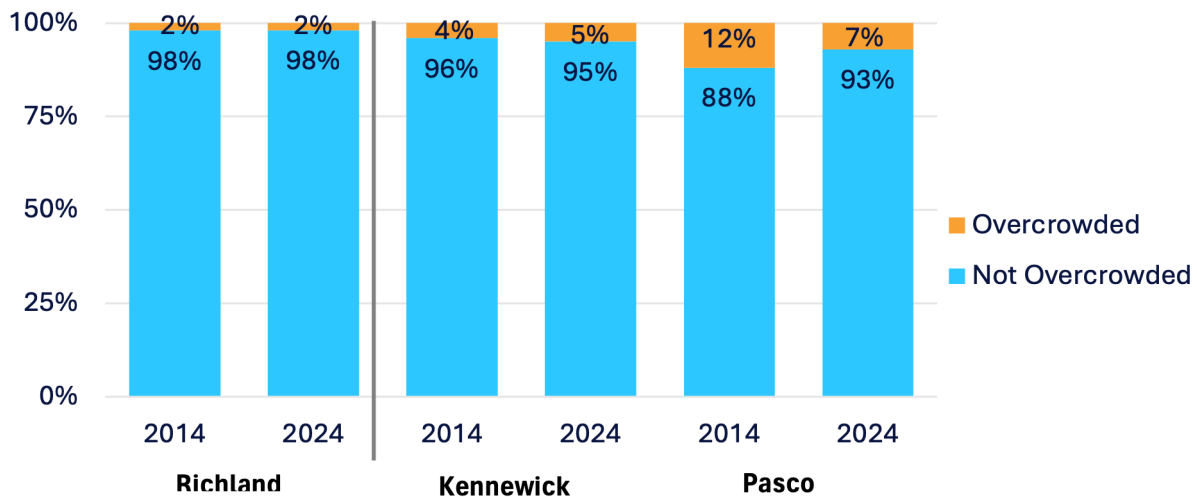


Figure H-12: Overcrowding Rates, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Note: Values for West Richland cannot be reported due to high margins of error.

HOUSEHOLD COMPOSITION

Richland's household composition reflects a mix of families, people living alone, and nonfamily households. Of the 71% of non-single households in Richland, most are married couples (Figure H-13). Around 15% of Richland households consist of non-spousal family members, a lower share than in Kennewick (20%) or Pasco (27%), while 9% of Richland households consist of non-family members.

As shown in Figure H-14, around 60% of homeowners are married couples, while another 12% are other cohabiting family members. Conversely, only 22% of rental households consist of married couples, and another 22% consist of other family members. These compositions are consistent with those in 2014 and parallel with those of Kennewick and Pasco, although the former has a much smaller share of individual renters (22%). **Renters and homeowners in Richland differ in overall composition, reinforcing the need for a range of unit sizes and tenure options. Yet both groups span a wide spectrum of household types, highlighting the city's diverse housing needs.**

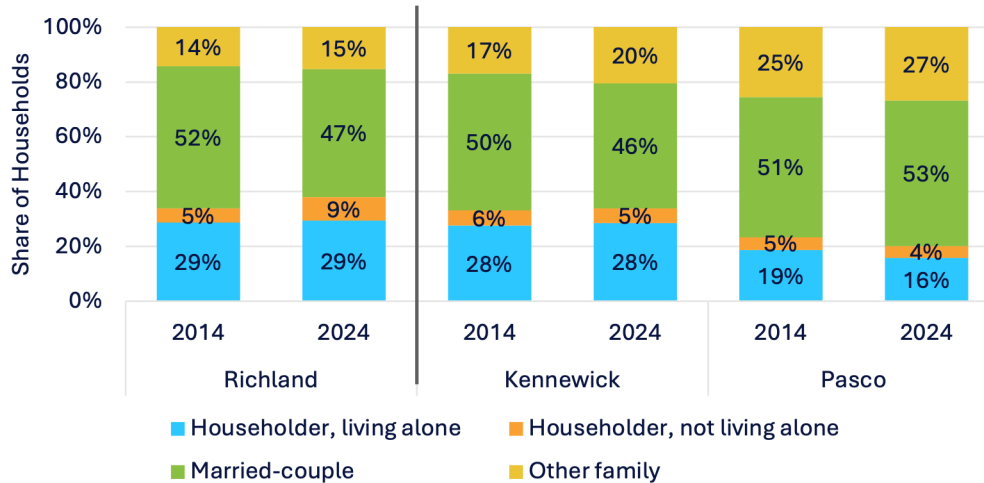


Figure H-13: Household Composition, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Note: Married-couple and Other family are family-based homes. Values for West Richland not available.

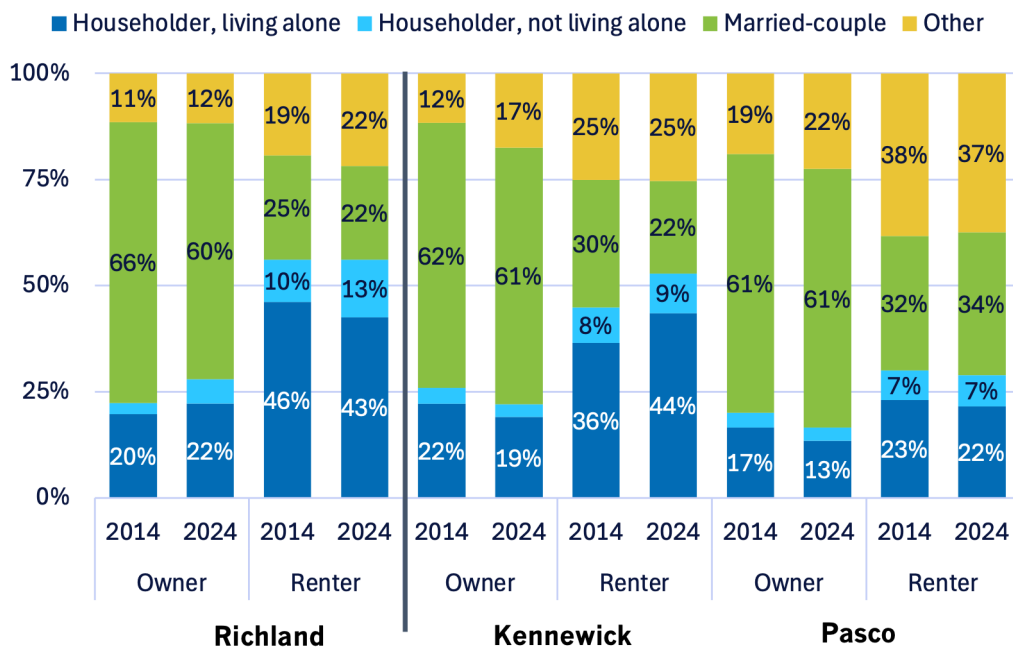


Figure H-14: Household Composition by Tenure, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Note: Values for West Richland not available.

Household Income and Cost Burden

This section provides an insight into household income levels of Richland and the broader region, as well as how much of their income is spent on housing-related costs. Household income is one of the primary factors shaping housing choice: higher-income households generally have more flexibility to absorb rising rents or home prices, while lower-income households have fewer options and are more likely to experience housing instability when costs increase.

HOUSEHOLD INCOMES

Richland's median household income was approximately \$95,800 in 2024, higher than Kennewick and Pasco (Figure H-15).⁸ West Richland had a higher median household income, at approximately \$119,900.

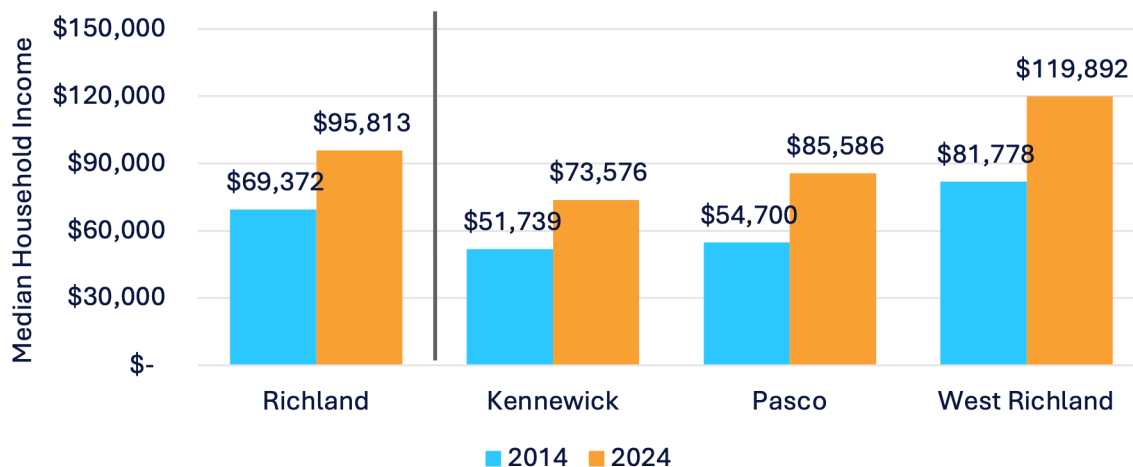


Figure H-15: Median Household Incomes, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Although Richland's median household income is relatively high for the region, the City includes households across a wide income range. Approximately 10% of households earned less than \$25,000, while another 12% earned between \$25,000 and \$50,000. At the upper end of the distribution, about 30% of households earned \$150,000 or more.

Median incomes also differ by race and ethnicity. As of 2024, the median household income was a bit lower for people of color, at \$84,000 for Black or African American households and around \$79,000 for Hispanic or Latino households compared to \$97,000 for white households.

The City's income distribution indicates a need for housing priced across a broad range of incomes, especially for low-income families. While household income has increased in

⁸ Median household income figures rely on 5-year ACS data from 2024, the most recent available year, and is based on all housing types and sizes. As of 2026, the median household income for Benton-Franklin counties for a family of four is \$105,400.

Richland and throughout the region, the housing costs have generally increased more, as explained in later sections.

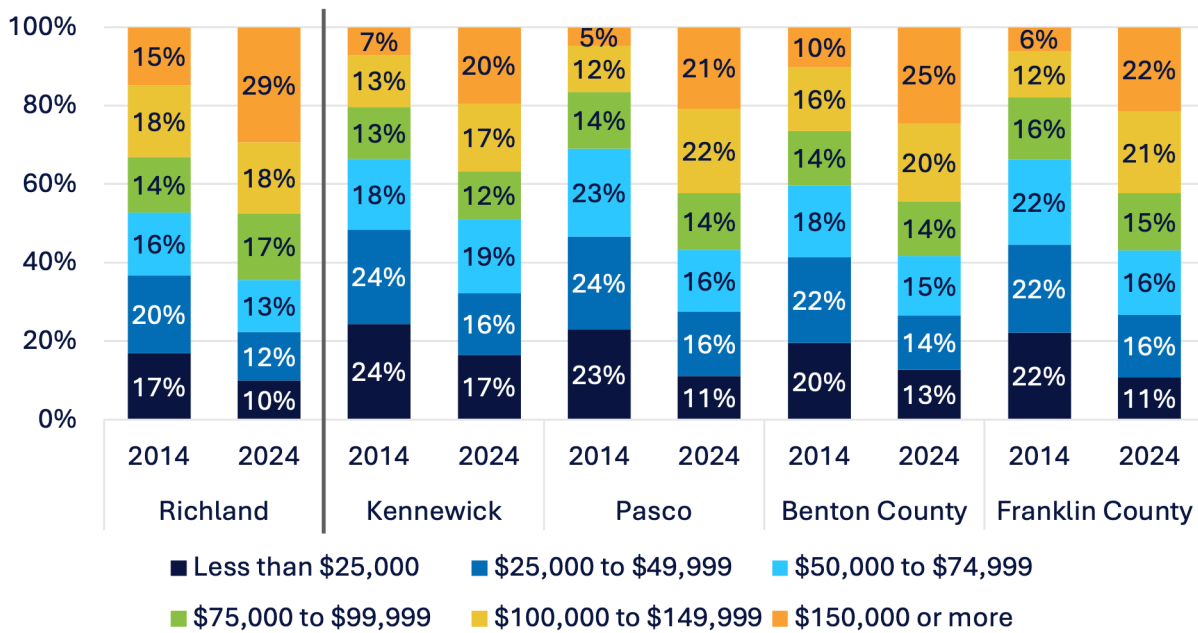


Figure H-16: Household Income Distribution, 2014 and 2024

Data Source: ACS 5-year Estimates, 2010-2014 and 2020-2024. Note: Values for West Richland not available.

Figure H-17 also illustrates the higher incomes of Richland households relative to those in Kennewick and Pasco. As of 2022, 61% of households in Richland earned at least the area median income (AMI) for the Benton-Franklin MSA, compared to 46% in Kennewick and Pasco. Meanwhile, 24% of households in Kennewick and Pasco earned less than 50% of the AMI, compared to 13% in Richland. **Even though Richland households, on average, have higher incomes than in peer cities, there is still a need for housing priced for those earning less than 50% and 30% of AMI.** Overall, the City's household income distribution closely resembles that of 2012.

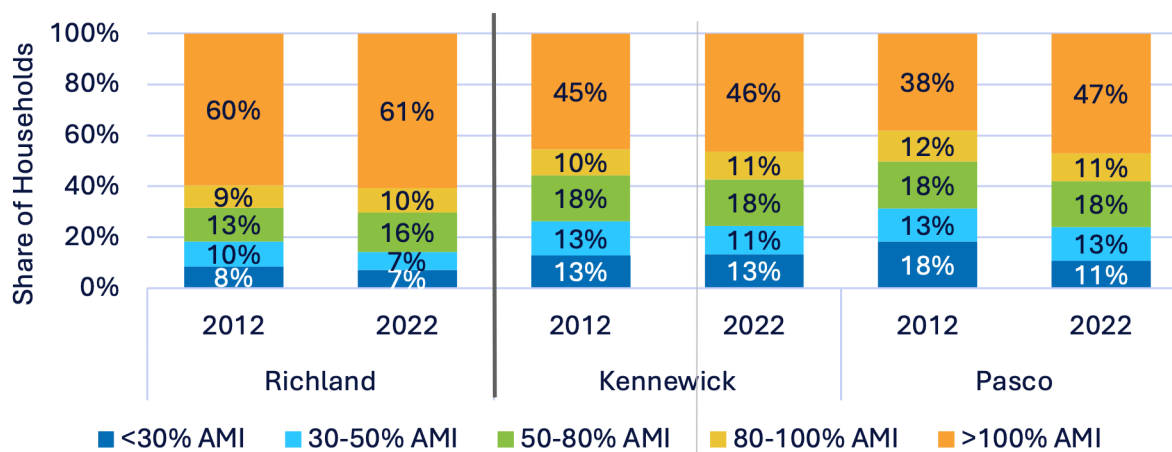


Figure H-17: Household Incomes relative to AMI, 2012 and 2022

Data Source: HUD CHAS, 2008-2012 and 2018-2022. Note: Values for West Richland not available.

COST BURDEN

Analyzing the number of cost-burdened households provides another way to evaluate housing affordability. According to the U.S. Department of Housing and Urban Development (HUD), households are considered cost-burdened if they spend more than 30 percent of their income on housing and severely cost-burdened if they spend more than 50 percent.

Housing cost burden can put households in vulnerable situations and force them to make trade-offs between housing costs and other essentials like food, medicine, or transportation. This unstable condition can also lead to rental evictions, job instability, school instability for children, and homelessness. Since housing is often scarce at lower rental rates, most households in this income range pay more than 30% of their income for housing. Low-income households that are severely cost-burdened are at high risk of homelessness if a household crisis emerges.

Cost burden is less common for owner-occupied households than for renter-occupied households, in part because mortgage lenders typically ensure that a household can meet its debt obligations before approving a loan. However, a cost burden can arise for owner-occupied households for various reasons, including when a household secures a mortgage and then experiences a decline in income. In addition, retired persons subsisting on a fixed income can experience a financial burden as property taxes rise beyond their means.⁹

⁹ Also, it is important to note that households with incomes over 100% of the AMI (such as middle to high income households) are less burdened overall since their larger income, minus housing costs, will go farther to cover non-housing expenses such as transportation, childcare, and food. While cost burden is a common measurement of housing affordability, it does have limitations. The measurement does not consider the actual income and the possibility of higher incomes being able to easily pay for necessary nondiscretionary expenses with the remaining income and it does not account for accumulated wealth and assets (such as profits from selling another house) that allow them to purchase a house that would be considered unaffordable to them based on the cost-burden indicator.

Around 37% of households in Richland are cost-burdened, and over half of those are severely cost-burdened (20% of all households) (Figure H-18). Although this still constitutes a notable share of Richland’s population, it represents a smaller share of households than in Kennewick or Pasco, where at least half of households are cost burdened. Furthermore, unlike in Richland, where the share of cost-burdened households has slightly decreased since 2014, both Pasco and Kennewick have seen an increase in this share. Richland’s lower share of cost-burdened households suggests that housing prices within the city are more closely aligned with household incomes than in other cities in the region. However, the fact that over one-third of households in Richland spend more than 30% of their income on rent suggests that the City still has a shortage of lower-cost units.

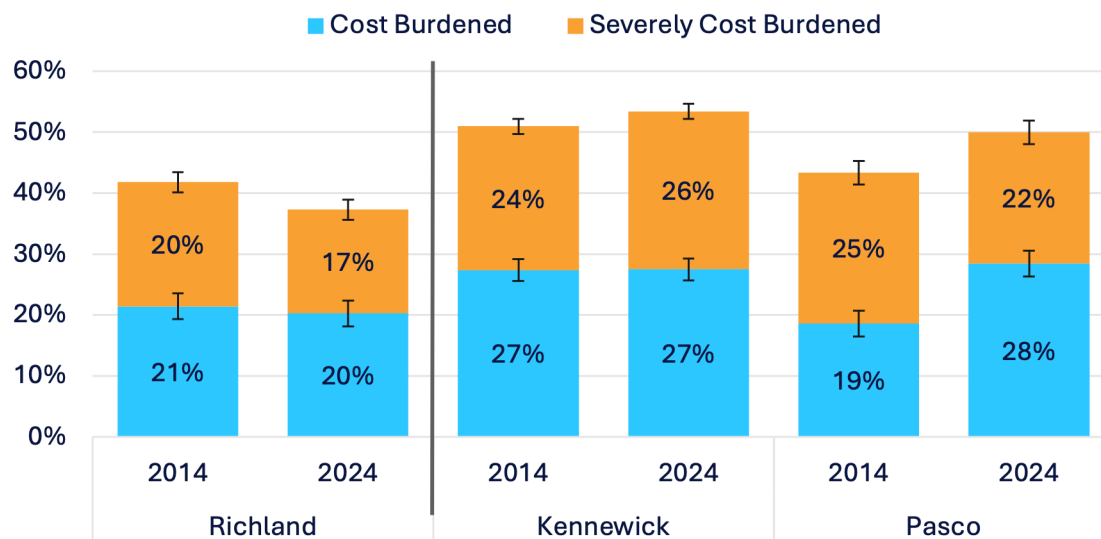


Figure H-18: Rental Cost Burden, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Note: Values for West Richland cannot be reported due to high margins of error.

In Richland and throughout the region, a much higher share of renters are cost-burdened than homeowners (32% vs 15%) (Figure H-19). This may be attributed to homeowners having higher incomes on average than renters. However, this data suggests Richland has a greater shortage of lower-cost rentals than owner-occupied housing. **A larger share of Hispanic households than White households are cost burdened.**¹⁰

¹⁰ Based on the 2018-2022 Consolidated Planning and Comprehensive Housing Affordability Strategy (CHAS) data from HUD, the most recent available at the time of this report, an estimated 33% of non-Hispanic White households in Richland were cost burdened, compared to 44% of Hispanic/ Latino households. There was not enough available cost burden data for other people of color.

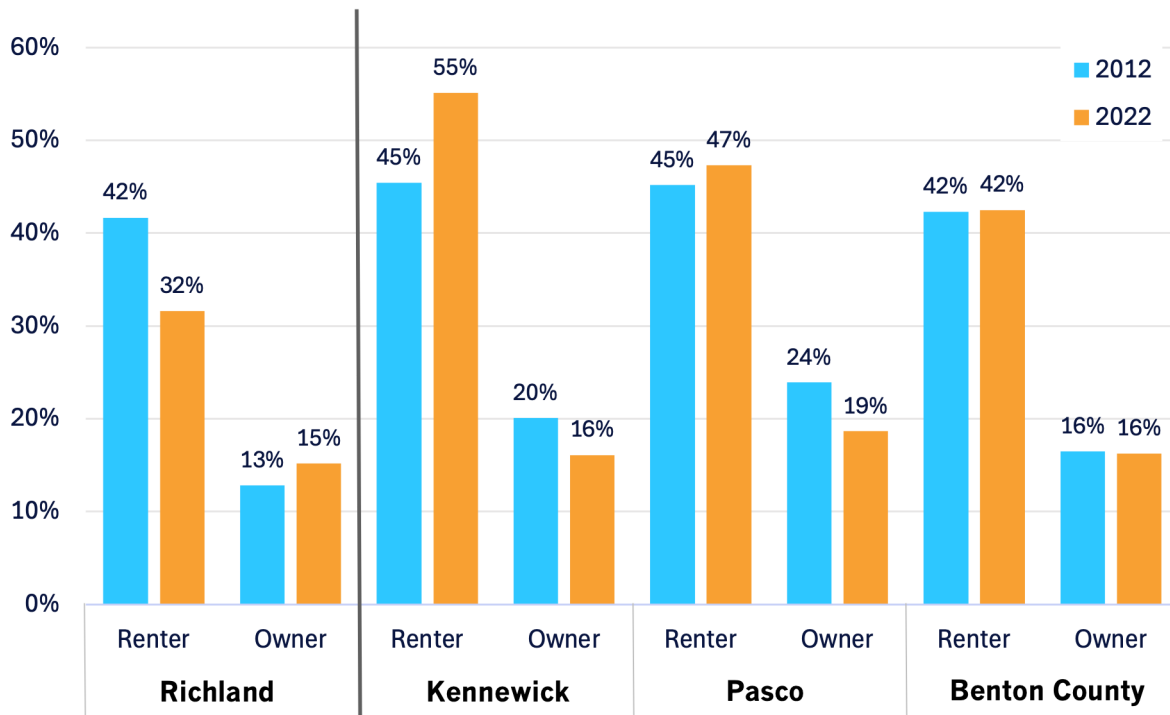


Figure H-19: Cost Burden by Tenure, 2012 and 2022

Data Source: HUD CHAS, 2008-2012 and 2018-2022.

Recognizing that transportation is often a household's second largest expenditure (after housing costs) and that households often make trade-offs between housing and transportation costs (such as by living further from their job, where housing might be cheaper but then spending more on transportation costs for commuting), the Center for Neighborhood Technology's Housing and Transportation Affordability Index measures the combined amount that households spend on transportation and housing.¹¹ As shown in Figure H-20, approximately 39% of households in Richland spend more than the metric's benchmark of 45% of their combined income on rent. Since almost as many households in Richland are classified as rent burdened (39%), most of the burden measured in this index is likely due to housing rather than transportation costs.¹²

Even though a larger share of households in Kennewick and Pasco are rent-burdened than in Richland, the shares of households considered "burdened" by housing and transportation costs are comparable across these cities. Around 40% of households in Pasco and 35% of households in Kennewick spend more than 45% of their income on housing and transportation. Additionally, only 10% of households in Pasco and 7% in Kennewick spend more than 54% of their incomes on housing and transportation costs, compared to almost 20% in Richland. However, West Richland

¹¹ Brookings Institute background on the [affordability index](#).

¹² [Housing and Transportation Index](#) in Richland.

has a much larger share of households burdened by transportation costs with around one-third spending more than 54% of their income.

These differences may suggest that transportation is a relatively higher cost for households in Richland than in Pasco and Kennewick. Even though housing costs remain the primary expense for households, there could be value in planning for more housing near jobs and services to reduce transportation costs.

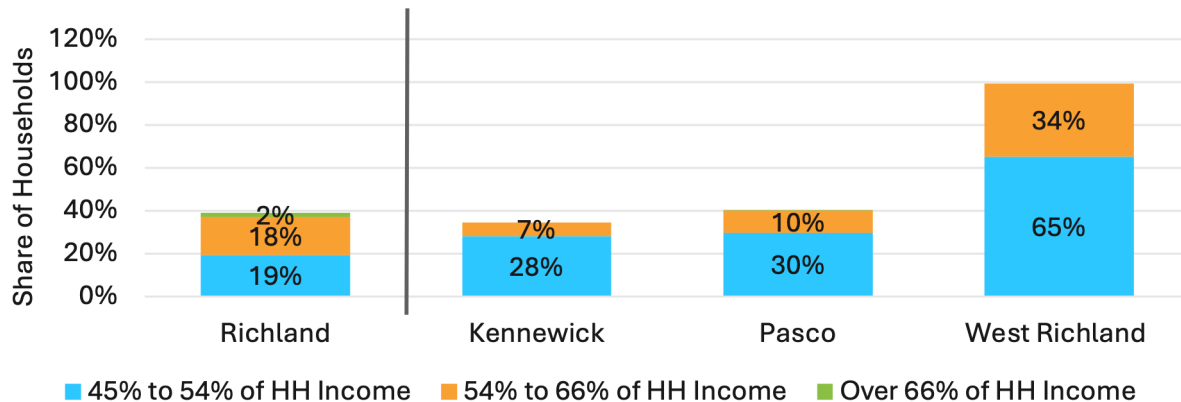


Figure H-20: Share of Cost Burdened Households based on Housing + Transportation Costs

Data Source: H+T Affordability Index <https://htaindex.cnt.org/map/> (2025)

HOUSING VALUE TO INCOME RATIO

A housing value-to-income ratio measures the overall affordability of housing by dividing the median home price by the median annual income. Higher ratios translate to lower buyer purchasing power, generally signaling a less healthy housing market.¹³ With a value of 4.6, the housing value-to-income ratio in Richland is close to the national average, but remains above the standard benchmark (5.0). In Richland, as in the rest of the Tri-Cities, the housing-to-income ratio has increased since 2014 (when it was 2.9), indicating that housing prices have risen much faster than incomes in recent years. The trend points to a growing need for more housing available at lower price points in Richland.

The ratio is higher than in Pasco (4.4), but lower than in Kennewick (5.0). In Richland, as in the rest of the Tri-Cities, the housing-to-income ratio has increased since 2014 (when it was 2.9), indicating that housing prices have risen much faster than incomes in recent years. The trend points to a growing need for more housing available at lower price points in Richland.

¹³ Housing values are derived from the Zillow Home Value Index (ZHVI), which measures the typical home value (between the 35th and 65th percentile) in a given area. While home values indicate what a home would likely sell for on the market, it considers all homes in the area, rather than just those that have recently sold.

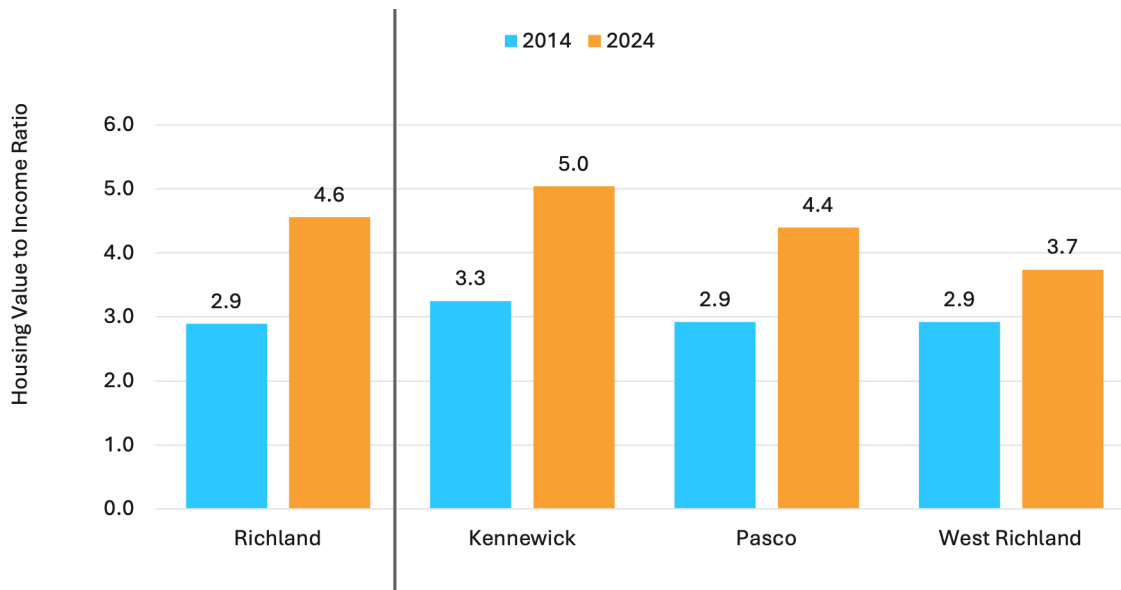


Figure H-21: Ratio of Housing Costs to Income, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

HOUSEHOLDS EXPERIENCING HOMELESSNESS

In 2025, an estimated 124 individuals in the Benton-Franklin MSA were experiencing homelessness, according to HUDs Point in Time Count¹⁴ (Figure H-22). Almost two-thirds of these people were living in some sort of shelter or other type of structure, while the remaining were unsheltered. The number of people experiencing homelessness in the MSA has steadily decreased since 2021, when almost twice as many people were experiencing homelessness (an estimated 229 people). In 2015, there were an estimated 272 people experiencing homelessness in the area. Although the downward trend in the overall number of people experiencing homelessness is promising, the number of people who were unsheltered has increased since 2021. Furthermore, because they rely on visual observations, the official Point-in-Time counts often undercount. While a small number overall, the region still has a need for housing for those experiencing homelessness. The

¹⁴ HUD requires local Continuums-of Care (CoCs) to conduct an annual Point-in-Time (PIT) count of people experiencing sheltered and unsheltered homeless. The count is based on observations from a single night in January and can may be an understatement of the total number of people experiencing homelessness.

Housing for People Experiencing Homelessness section provides an overview of housing in the region, specifically geared towards this population.

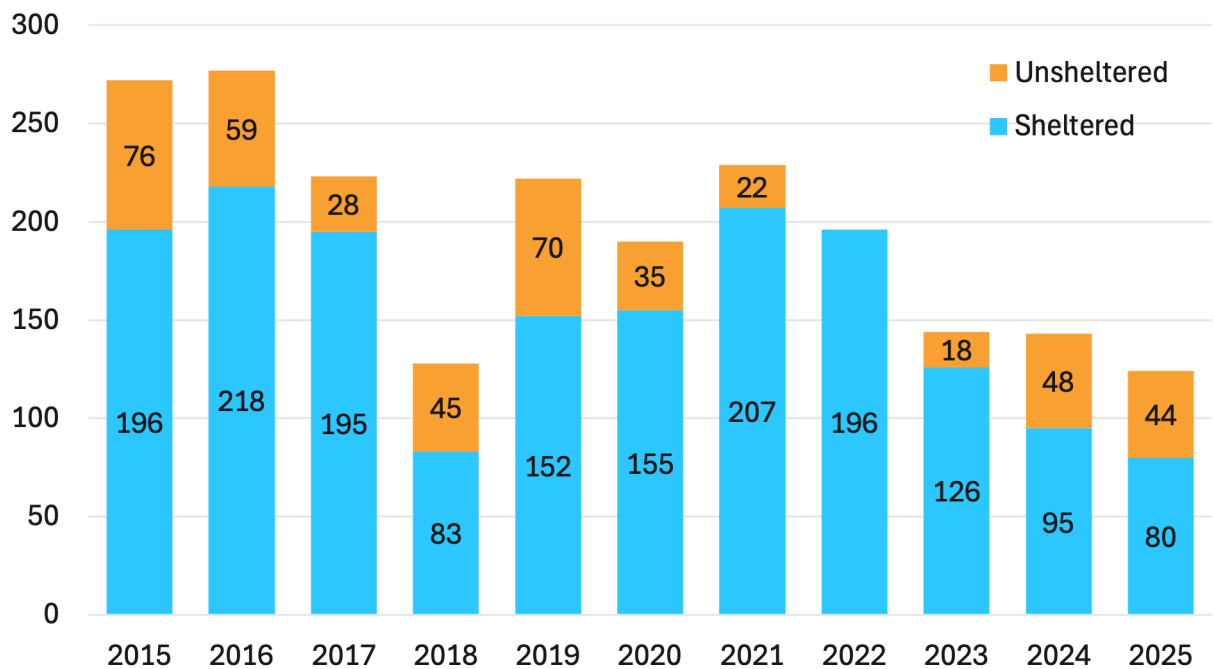


Figure H-22: Individuals Experiencing Homelessness, 2015-2025

Data Source: Benton-Franklin Trends, 2015-2025

Housing Stock Characteristics

While the prior sections focus on *household* characteristics, this section focuses on the *physical characteristics of housing* in Richland, including the number of bedrooms, the number of units in a structure, and the age of the housing stock. This data, when analyzed alongside household and population characteristics, provides further insight into the city's current housing conditions and sheds light on Richland's current and future household needs.

DIFFERENT TYPES OF HOUSING

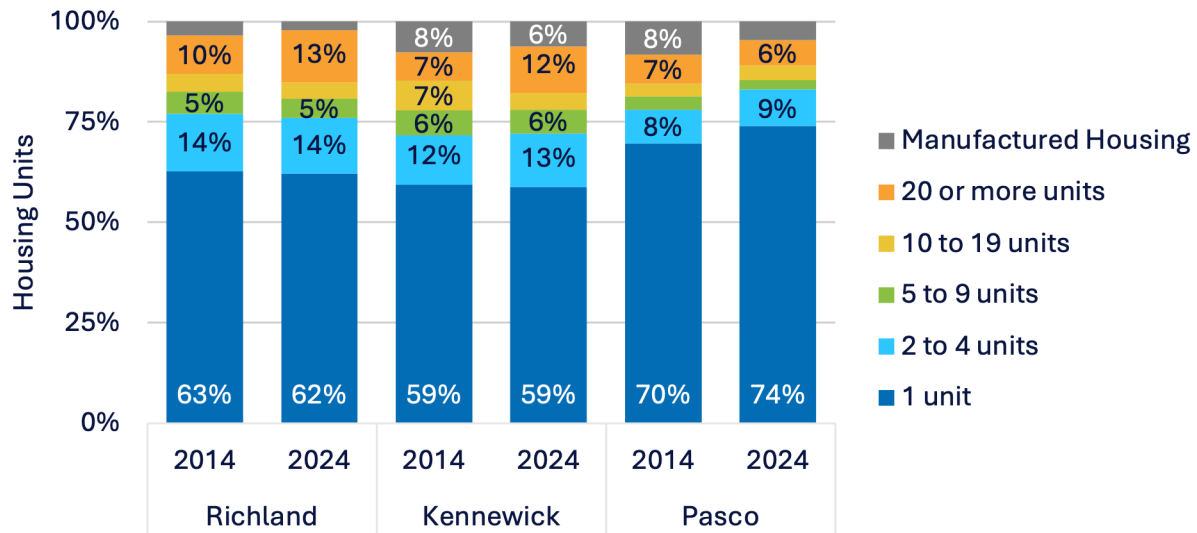


Figure H-23 shows the distribution of different housing types in Richland. Different housing types are often associated with different tenure patterns: apartments are more often renter-occupied, while detached homes are more often owner-occupied. Townhouses, condominiums (condos), and smaller multifamily buildings typically fall somewhere in between, depending on price point, location, and building age.

In Richland, the majority (62%) of households live in single-unit dwellings, similar to households in Kennewick (59%) and Pasco (74%). The second most prevalent housing type in Richland is multifamily structures with two to four units, representing 14% of the City's occupied housing units, followed by multifamily structures with more than 20 units (13%). Overall, Richland's multifamily housing stock represents just over one-third of its housing units (36%), a share similar to Kennewick (35%) but higher than Pasco (21%).

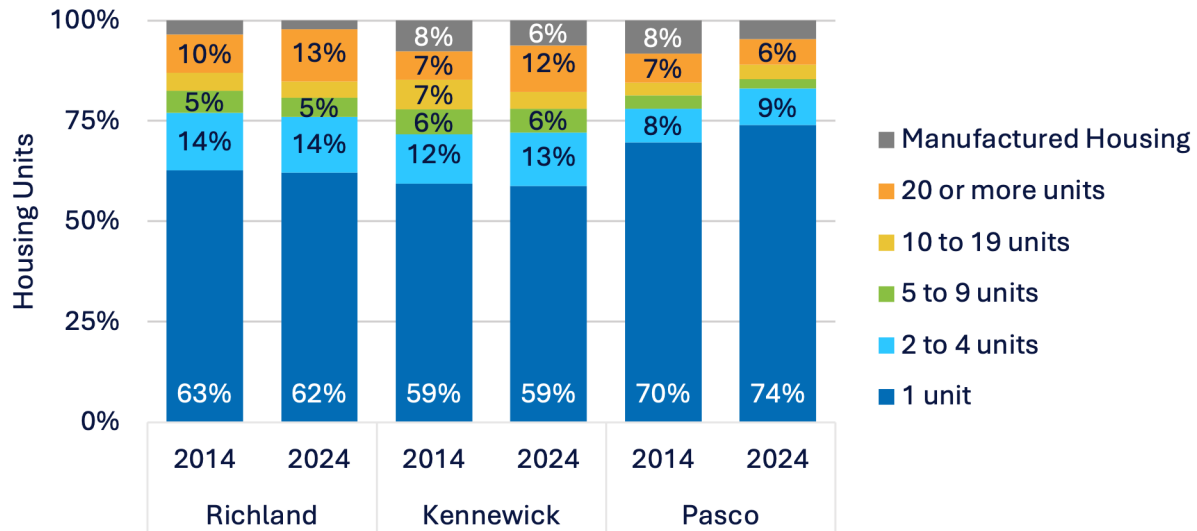


Figure H-23: Housing Types, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Note: Values for West Richland cannot be reported due to high margins of error.

As of 2024, manufactured homes accounted for approximately 2.2% of Richland’s housing. Some are located on individual lots, while others are situated in manufactured home parks. Figure H-24 shows additional detail for the City’s manufactured home and Recreational Vehicle (RV) parks. Although these housing types make up a small portion of the overall housing stock, manufactured and modular homes can provide more affordable homeownership options for households, particularly in predominantly single-family cities like Richland.

Figure H-24: Manufactured Housing and Age of Housing

NAME	YEAR BUILT	Lots
Alyson Manor Mobile Estates	1975	126
Richland Mobile Home Community	1965	336
The Hills Manufactured Home Park	1970	277
Total		739

Data Source: Benton County Assessor, 2026; MH Village¹⁵

¹⁵ MH Village. “[Alyson Manor Mobile Estates](#).” MH Village. “[Richland Mobile Home Community](#)”; MH Village. “[Hills Manufactured Home Park](#)”

HOUSING SIZE

Examining the housing stock by number of bedrooms per unit helps indicate whether a community's supply aligns with the households that need housing. Unit size is closely tied to household size and composition: smaller units, such as studios and one-bedrooms, tend to house individuals and couples, while larger units, such as three- or four-bedroom units, are generally needed to accommodate families. As a result, a city can have an adequate total number of units yet still fall short if the bedroom mix does not match housing needs.

Among the jurisdictions shown, Richland's housing stock is weighted toward larger units. Three-bedroom units are the most common size at 37%, and four- or more-bedroom units account for another 29%. Smaller units are comparatively limited: studios and one-bedrooms together make up about 12% of the stock, and two-bedroom units another 22%. Richland's distribution is like Kennewick's and skews smaller than Pasco and West Richland, where three-bedroom units alone make up nearly half of all units (49% and 48%, respectively). This mix suggests that Richland is positioned to accommodate families and larger households seeking space, but its limited supply of studios, one-bedrooms, and two-bedrooms could constrain housing choices for renters and first-time buyers entering the market, as well as for older residents looking to remain in the community in a smaller home.

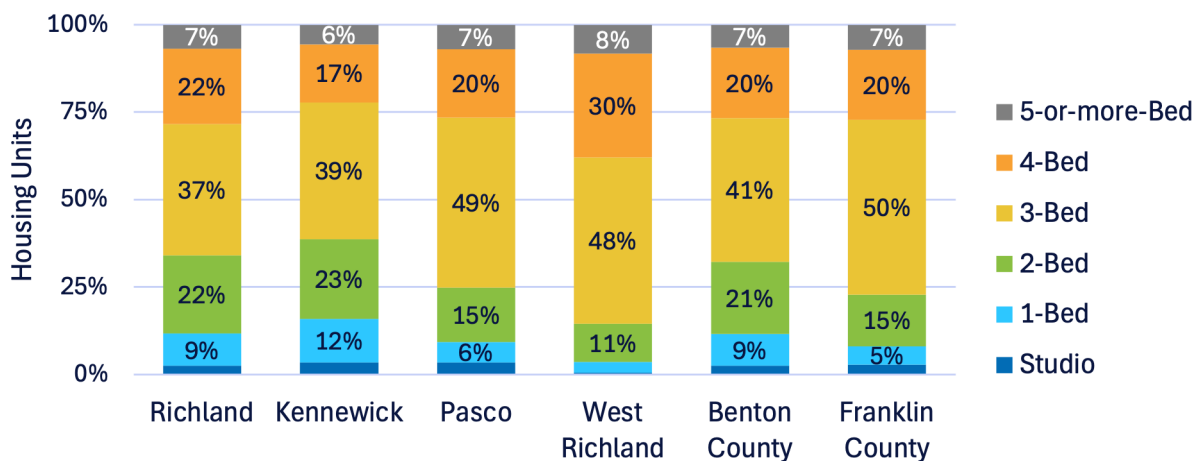


Figure H-25: Housing Size by Number of Bedrooms

Data Source: US Census Bureau ACS 5-year Estimates, 2020-2024

Figure H-26 shows unit sizes by tenure, as the rental and for-sale markets often serve different households and offer different housing sizes. Looking at the two together shows not only how much housing of each size exists, but also whether it is available for rent or for sale. This distinction is important because a community may appear to have a reasonable mix of unit sizes overall yet still offer limited choices for certain households.

Across the Tri-Cities, unit sizes vary sharply by tenure, with rental units concentrated in smaller sizes and for-sale units in larger ones. In Richland, nearly three-quarters of rental units (71%) have two or fewer bedrooms, while just 7% have four or more. The for-sale stock is nearly the reverse: only 12% have two or fewer bedrooms, while 46% have three bedrooms and 42% have four or more. This divide is consistent across all three jurisdictions but is most pronounced in Richland,

where larger for-sale units make up a higher share of housing than in Kennewick or Pasco. The pattern suggests that smaller households who rent likely have options that fit their needs, but households seeking homeownership are largely limited to larger, family-sized homes, which could limit ownership opportunities for smaller households and first-time buyers.

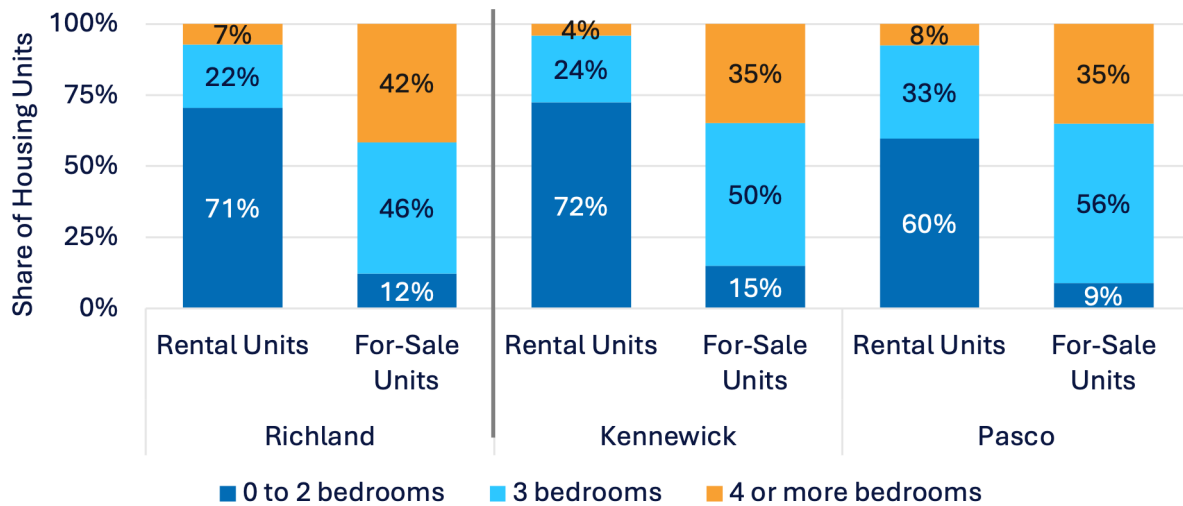


Figure H-26: Housing Size by Tenure

Data Source: US Census Bureau ACS 5-year Estimates, 2020-2024.

Note: Values for West Richland not available.

AGE OF HOUSING

The following series of figures shows the ages of Richland's housing stock.

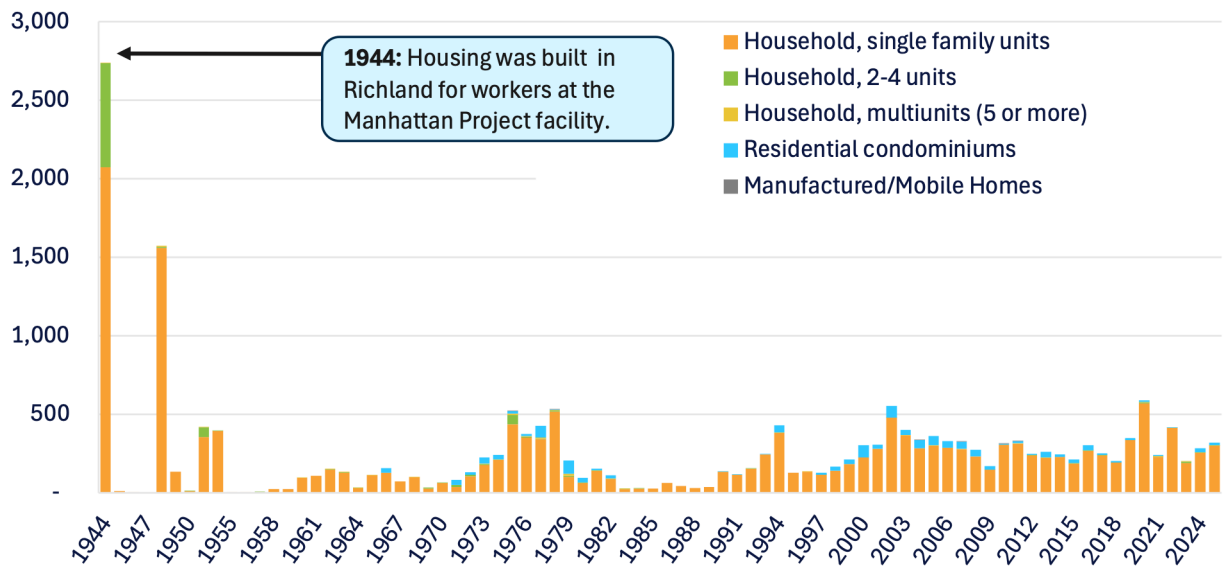


Figure H-27 shows the number of housing units constructed each year, while Figure H-28 shows the cumulative number of dwellings. The age of the current housing stock by type is summarized in Table H-6.

Richland now has a broad mix of older and newer housing units. Approximately 40% of single-family dwellings in Richland have been built since 2000. Around 37% of single-family units are more than 50 years old (built before 1975). A much higher share of two to four-unit dwellings were built before 1960 (around 85%), whereas most residential condominiums have been built since 2000 (around 55%). More than one-third of units that are over 50 years old suggesting there could be a growing need to repair or rehabilitate some of the City's aging housing stock. As shown in the map, **most of the newer housing has been built further from downtown, and most homes in the central part of the city are at least 50 years old. Most of the planned new housing is also outside of the City center. The city might be interested in supporting new or rehabilitated units closer to downtown.**

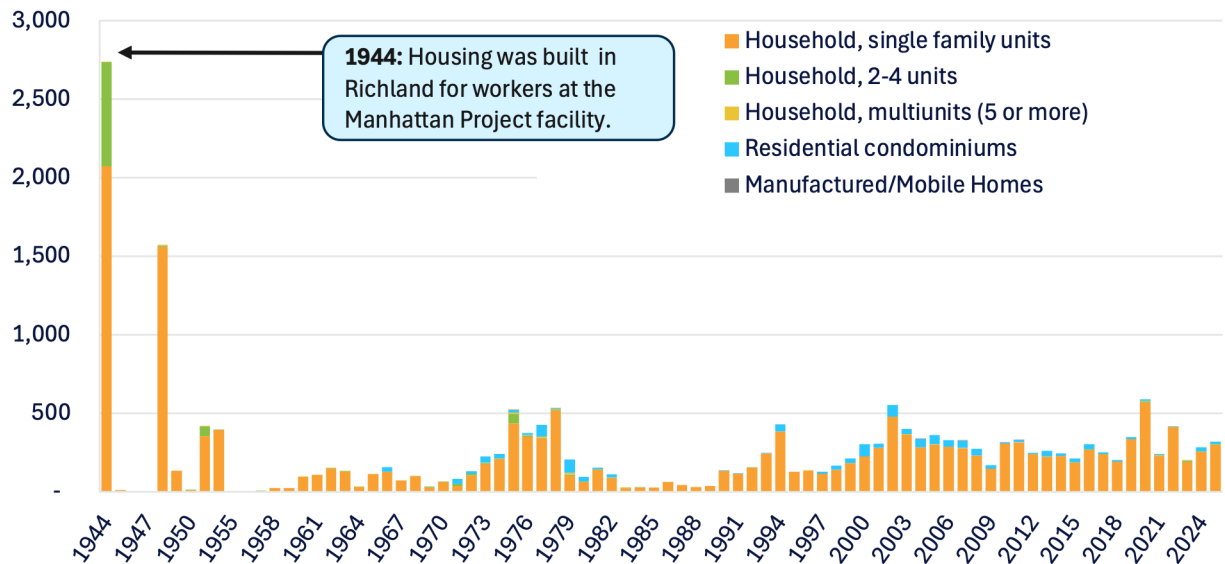


Figure H-27: Year Built by Housing Type (by Parcel), 1944 to 2024

Data Source: Benton County Assessor, 2026

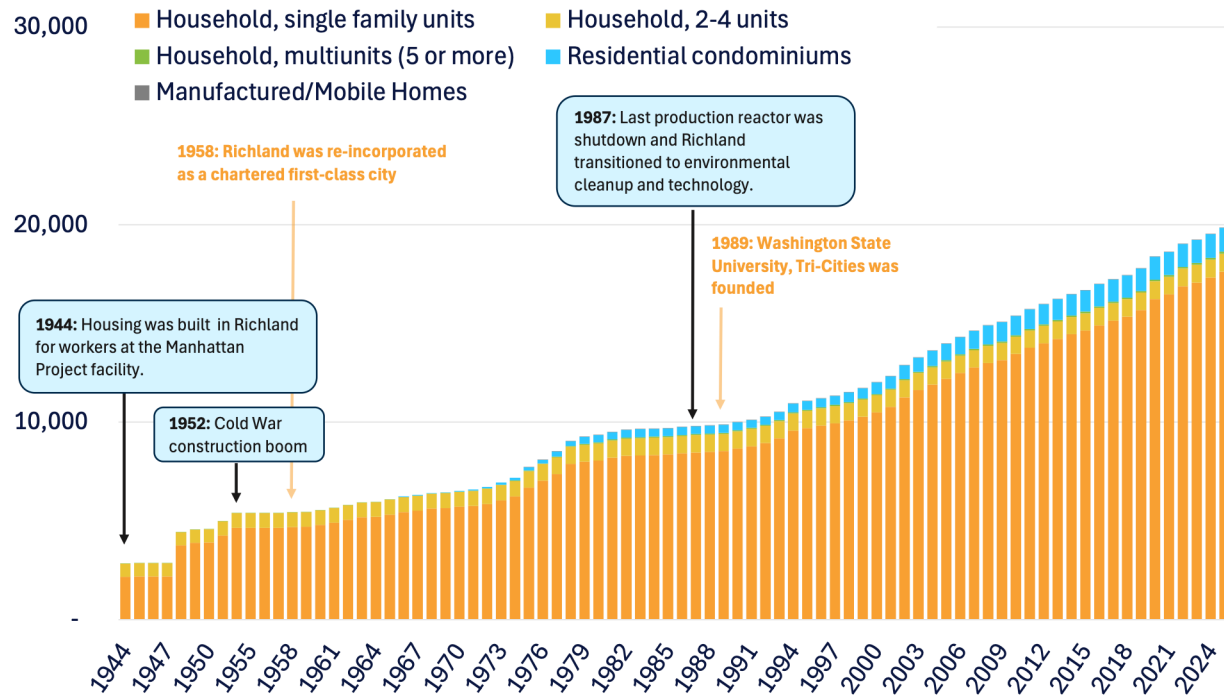


Figure H-28: Total Housing Units, 1944 to 2024

Data Source: Benton County Assessor, 2026

Table H-5: Count of Parcels by Structure Type and Timeframe Built

YEAR BUILT	SINGLE-FAMILY UNITS	STRUCTURE WITH 2 TO 4 UNITS	STRUCTURE WITH 5 OR MORE UNITS	RESIDENTIAL CONDOMINIUMS	MANUFACTURED/ MOBILE HOMES	TOTAL
Before 1950	4,790	674	20	61	7	5,552
1950 to 1974	2,148	110	10	118	-	2,386
1975 to 1999	4,023	92	40	370	2	4,527
2000 to 2009	2,878	2	9	470	5	3,364
2010 to 2019	2,526	15	11	161	2	2,715
2020 or Later	1,950	25	13	63	-	2,051
Unknown	208	-	4	28	-	240
Total	18,523	918	107	1,271	16	20,835

Data Source: Benton County Assessor, 2026

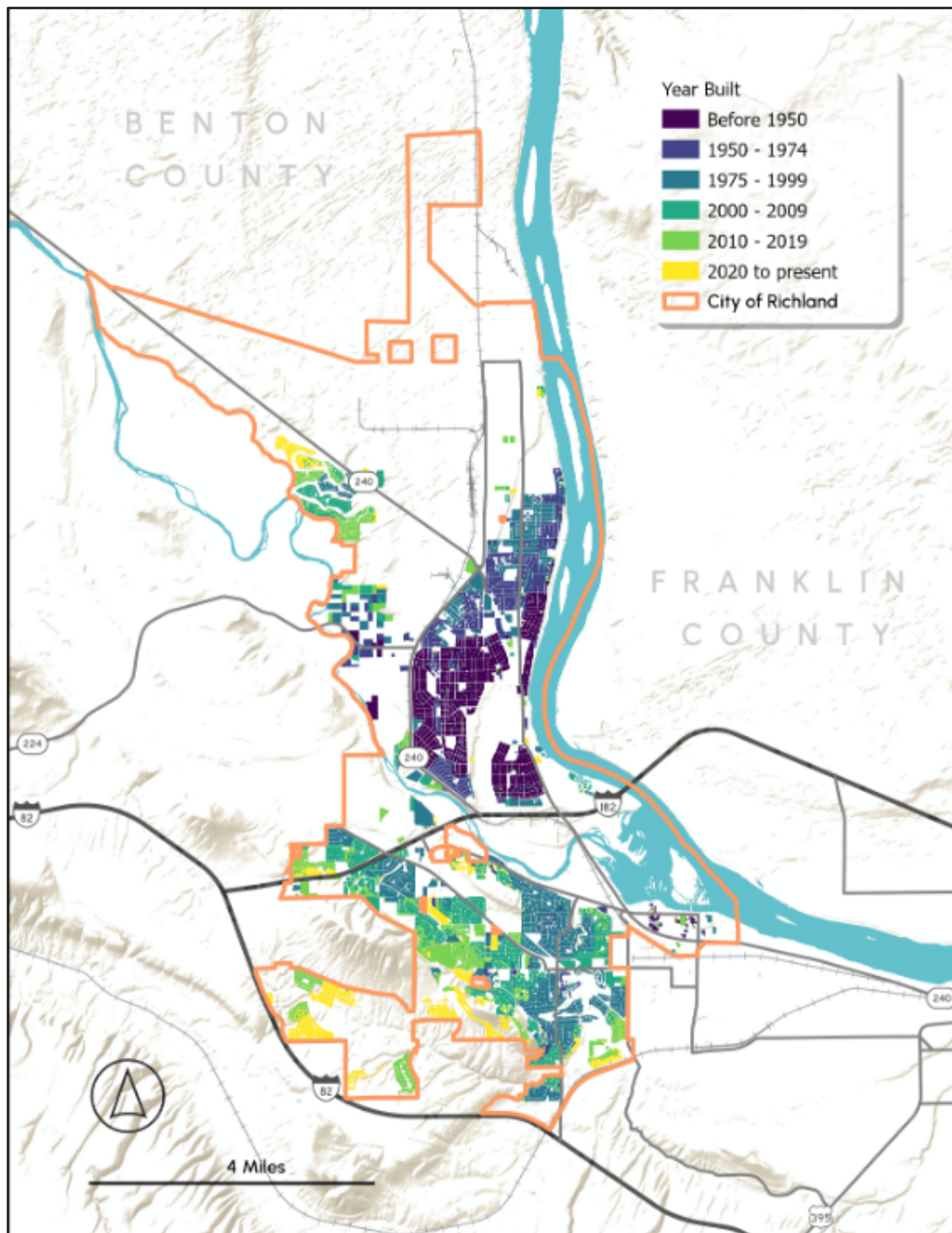


Figure H-29: Map of Housing Age

Data Source: Benton County Assessor, 2026. Note: This map shows a point per assessor parcel.

HOUSING VACANCY RATE

The following series of figures presents information on vacant units in Richland's housing stock. At any given time, a small percentage of housing units are likely to be vacant due to resident turnover, renovations, or other temporary factors. However, a vacancy rate that is too low can lead to higher housing costs and fewer options for residents, and many vacant housing units can indicate an unhealthy housing market and suggest underutilization.

Figure H-30 shows vacancy rates in for-sale units in the Tri-Cities. Across the Tri-Cities, homeowner vacancy rates are low and have generally declined over the past decade, pointing to increasingly tight for-sale markets. Richland is an exception to the downward trend, with its rate rising slightly from 0.5 to 0.7 percent, but it remains among the lowest in the region. Elsewhere, vacancy rates fell from 2014 to 2024, most sharply in Kennewick, where the rate dropped from 1.8 to 0.4 percent, and more modestly in Pasco, Benton County, and Franklin County. Across the Tri-Cities, the vacancy rate is below one percent, suggesting that for-sale housing is in short supply relative to demand, with few homes available for purchase at any given time.

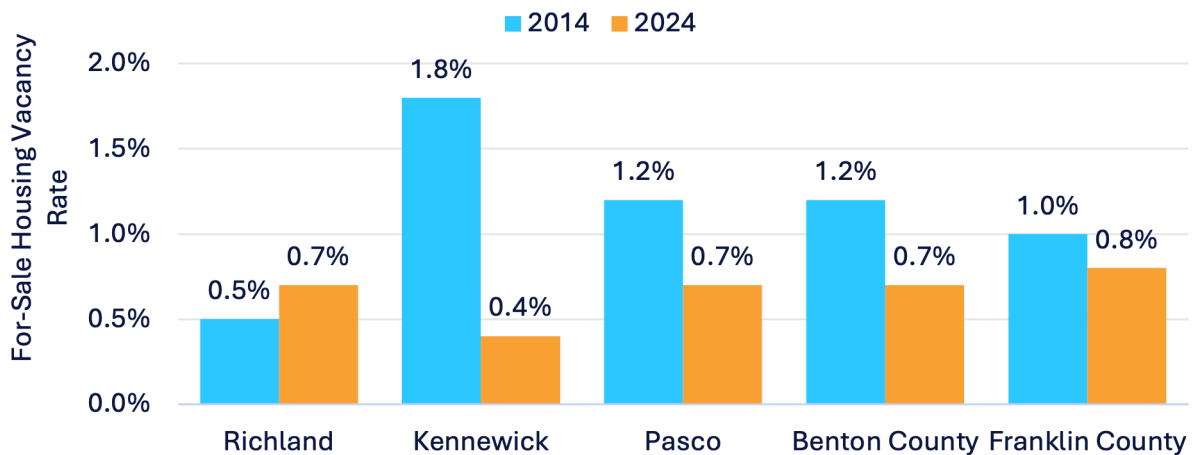


Figure H-30: For-Sale Housing Vacancy Rate, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Note: Values for West Richland cannot be reported due to high margins of error.

Figure H-31 shows vacancy rates for rental units in the Tri-Cities. Rental vacancy rates have converged over the past decade, with higher-vacancy jurisdictions declining and lower-vacancy ones rising toward a similar range. In Richland, the rate fell from 6.4 to 5.4 percent between 2014 and 2024, the highest among the jurisdictions. Rates also fell in Kennewick and Benton County overall, while Pasco and Franklin County moved in the opposite direction, rising from about 1 to 2 percent in 2014 to roughly 4 to 5 percent in 2024. As of 2024, rental vacancy rates are similar across the jurisdictions, ranging from 4.1 percent at the low end to 5.4 percent on the high end.

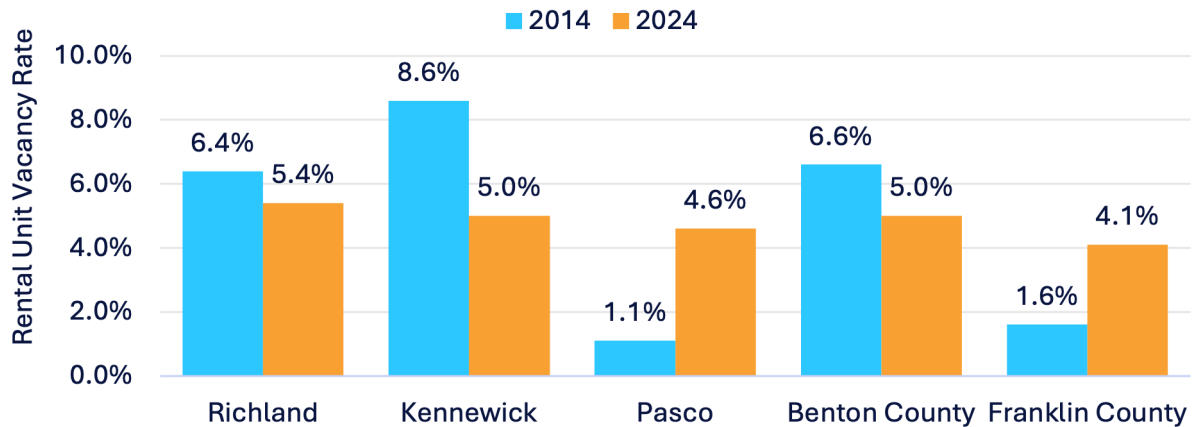


Figure H-31: Rental Housing Vacancy Rate, 2014 and 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024.

Note: Values for West Richland cannot be reported due to high margins of error.

REGULATED AFFORDABLE HOUSING STOCK

Housing units reserved for households earning less than a certain amount of the AMI (often 50 or 60 percent, depending on the program) through a subsidy, such as a state or federal program, or through deed restriction, are regulated affordable housing units. The rents are typically set so that these households spend no more than 30 percent of their income on rent. Richland has approximately 960 of these income-restricted units, shown in the table and map below.

Table H-6: Income Restricted Housing Units, 2026

PROPERTY	UNITS
Columbia Park	138
Copper Mountain	273
McMurray Park Phase II	98
Orchard Hills	141
Three Rivers Village	40
Vintage at Richland	148
Cullum House	8
Tri-Cities Terrace I	59
Tri-Cities Terrace II	39
Tri-Cities Terrance South	14
Total	958

Data Source: City of Richland

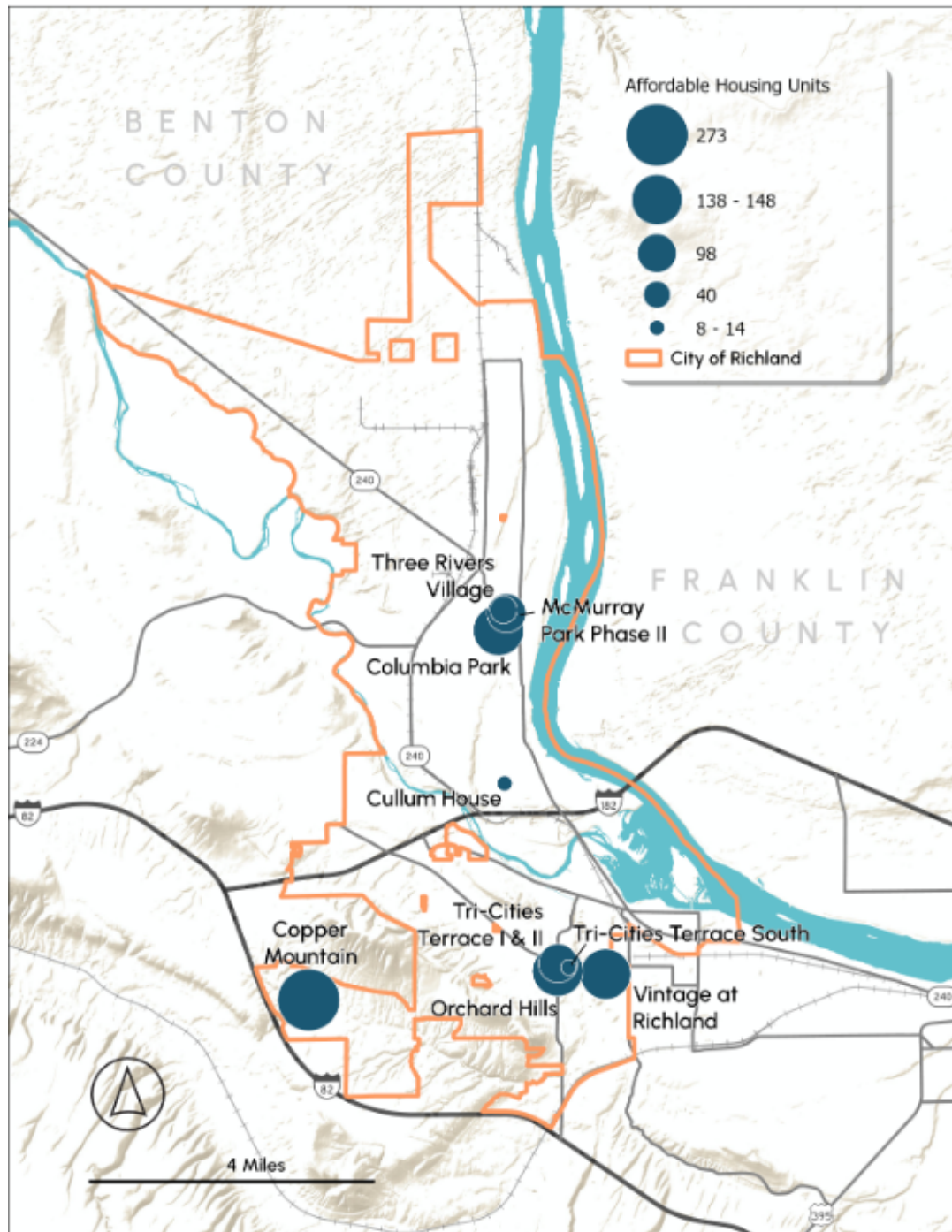


Figure H-32: Map of Income Restricted Housing Units

Data Source: City of Richland

HOUSING FOR PEOPLE EXPERIENCING HOMELESSNESS

As explained above in *Households Experiencing Homelessness*, the City and region have a small number of individuals experiencing homelessness. Homeless Management Information System (HMIS) data provide additional context on how households experiencing housing instability interact with the regional homeless service system (Figure H-33). In 2023, rapid rehousing accounted for the largest number of HMIS entries, with 332, followed by emergency shelter with 200 and homelessness prevention with 150.

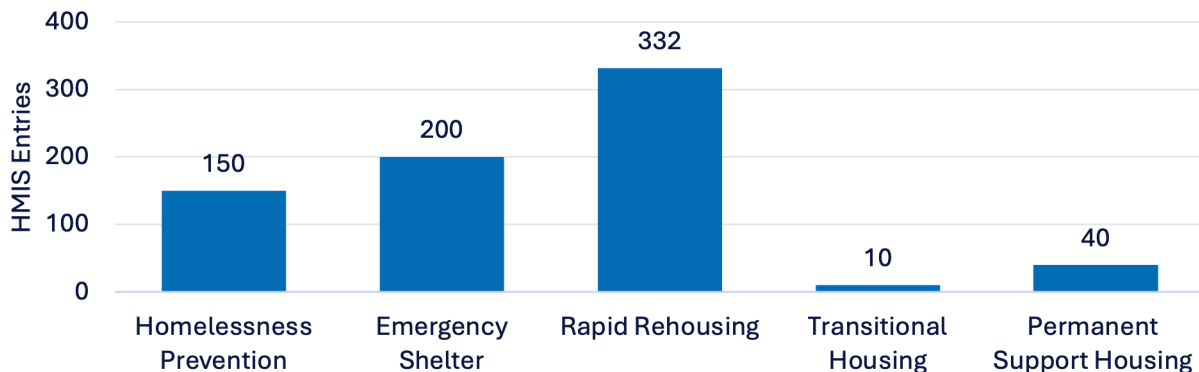


Figure H-33: Benton County HMIS Entries by Housing Type, 2023

Data Source: 2025-2029 Tri-Cities HOME Consolidated Plan; 2023 Washington State Homeless System Performance County Report Card.

Although Richland currently has an inventory of approximately 60 beds in transitional housing facilities and around 80 beds in permanent supportive housing facilities (Table H-7), both transitional and permanent supportive housing had far fewer entries: 10 and 40, respectively. **This suggests that the regional service system is primarily oriented toward immediate shelter, prevention, and short-term rehousing interventions, while longer-term housing supports appear more limited.** While this may reflect program availability rather than total need, the relatively low number of permanent supportive housing entries indicates a potential gap for households that need ongoing rental assistance, services, or case management to remain stably housed. Furthermore, some supportive housing units serve specific populations and therefore are not available to all residents. For example, certain developments may be restricted to single adults or require residents to meet sobriety criteria.¹⁶

¹⁶ The Housing Resource Center that enters the HMIS data had funding primarily for emergency housing (short term motel stay) and do not provide funding for transitional and permanent supportive housing.

Table H-7: Shelter, Transitional, Emergency, and Permanent Supportive Housing Inventory

HOUSING TYPE OR PROPERTY	UNITS	NUMBER OF BEDS
Emergency shelters	0	0
Transitional housing		
4th Dimension	2	10
Oxford Houses	8	71
Seasons Housing	1	
Permanent Supportive Housing		
Elijah Family Homes	8	27
Domestic Violence Services	10	35

Data Source: City of Richland. Note: This table only includes units that are completed. The City of Richland recently received a business license application for a "Sober Living House."

GROUP, SENIOR, AND INSTITUTIONAL HOUSING

Addressing housing needs for those aged above 60 will require a range of different housing opportunities. For example, the over 80-year-old cohort dominates the assisted living and more intensive care sector while new or near-retirees may prefer aging in place or communities, or active, age-targeted communities. New or near retirees aging in place/communities often benefit from housing accommodations designed or upgraded with visitability or Universal Design standards.¹⁷

The over 80-year-old cohort tends to need housing with more specialized senior housing accommodations. Group, senior, and institutional housing refers to housing that serves residents with specific care, accessibility, supervision, or service needs. Senior housing includes independent or assisted living options for older adults, ranging from age-restricted apartments to facilities that provide daily support. Group housing generally refers to shared residential settings for people who may need supportive services, such as adults with disabilities, people in recovery, or youth in care. Institutional housing includes facilities that provide a higher level of care or supervision, such as skilled nursing facilities, memory care facilities, rehabilitation centers, and residential treatment facilities.

¹⁷ Universal design is the principle that people of all ages and ability levels can use buildings, products, and the built environment without adaptation. Examples of universal design in housing include wide doorways, adequate maneuvering space in kitchens and bathrooms, switches and handles that are easy to reach and operate, and slide-out shelves. These and other relatively simple features enable people to remain in their homes even as their needs change over time. Visitability features are a subset of universal design that addresses access to the main part of the house to ensure that visitors with mobility limitations can access the homes of friends and relatives. Visitability features include wide doorways, a zero-step entrance, and no-stair access to a toilet facility with adequate space for maneuverability. (AARP, www.aarp.org/livable-communities/housing/info-2020/homefit-guide.html).

Table H-8 shows Richland’s inventory of special senior, group, and institutional housing types, which have a combined total of approximately 700 units. The figure shows the number of units in each, along with the year built and the types of services provided. In Richland, this inventory primarily serves older adults, with facilities offering a range of support from low-income senior housing to independent living, assisted living, memory care, respite care, nursing, rehabilitation, and long-term care. Assisted living is the most common service type among the listed facilities, while several facilities provide specialized memory care for residents with Alzheimer’s disease or other forms of dementia.

These housing options are particularly relevant given Richland’s age profile. As previously noted, Richland has a higher median age than its peer cities and surrounding counties, and nearly one in five residents (17%) is age 65 or older.

Table H-8: Richland Group, Senior, and Institutional Housing Stock

NAME	YEAR BUILT	SERVICES	UNITS
Brookdale Richland Assisted Living	1988	Assisted living	159*
Bonaventure of Tri-Cities	2008	Independent/ assisted living, memory care	97
Brookdale Torbett Memory Care	2000	Memory care	48*
Guardian Angel Homes	2012	Assisted living, memory care, respite care	96*
Life Care Center of Richland	1966	Nursing, rehabilitation, long-term care	104*
Luther Senior Center	1960	Low-income senior housing	74
Brookdale Meadow Springs Assisted Living	1998	Assisted living	108*

Data Source: Benton County Assessor, 2026; CoStar; Washington Health Care Association

*Number of licensed beds.

Figure H-34 shows the share of households with at least one person with a disability across the Tri-Cities. **In 2024, an estimated 14% of Richland households included at least one person with a physical, cognitive, sensory, or other disability, reflecting demand for housing that is accessible, adaptable, and located near services.** This share was lower than in Kennewick but higher than in Pasco, suggesting that accessibility needs are a relevant part of Richland’s housing demand even if they affect a smaller share of households than in some nearby communities

Housing needs for people with disabilities vary widely. Features to make a home accessible may include step-free entries, wider doorways, elevators, ground-floor units, accessible bathrooms, service-animal accommodations, and proximity to transit, health care, or supportive services. However, while these needs may overlap with the City’s aging population, since disability rates generally increase with age, they are not limited to older adults.

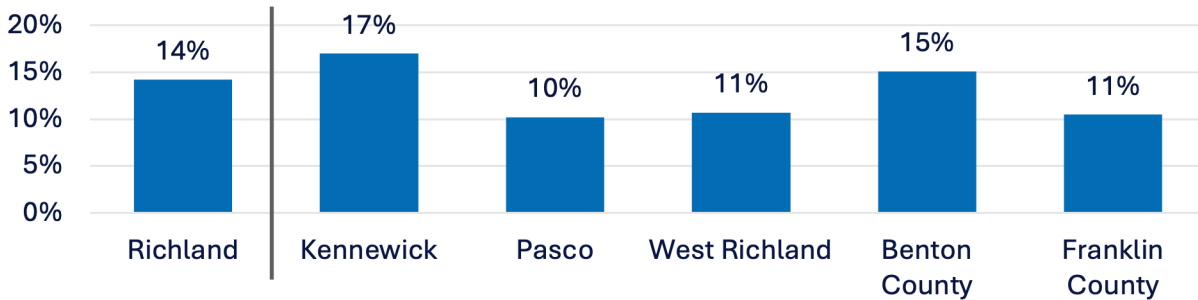


Figure H-34: Share of Households with Person(s) with Disabilities, 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2020-2024

HOUSING AND EMPLOYMENT

The location of housing is also an important consideration when assessing current housing needs, particularly in relation to where residents work. A limited availability of affordable and suitable housing near jobs can contribute to long commutes and higher transportation costs.

Almost two-thirds of those employed in Richland live in other cities. Although this phenomenon can sometimes be attributed to a discrepancy between employer needs and worker skills in a particular jurisdiction, it is also very common for people to naturally find employment in nearby cities, particularly in metropolitan areas with several adjoining jurisdictions. The most common city to commute into Richland from is Kennewick followed by Pasco. The Kennewick-Richland MSA functioned as a significant regional employment hub, with most of its workforce of 104,000 employees both living and working within the region. Approximately 73% of those employed in the region are residents, while 70% of the area's residents stay within the MSA for their primary jobs. Despite this high level of internal consistency, there is a notable level of cross-border movement; roughly 27% of the local workforce commutes in from outside the MSA (inflow), and 30% of residents commute out to other regions for work (outflow).

Overall, the data illustrates a relatively self-contained labor market that nevertheless supports a healthy exchange of nearly 61,000 workers with neighboring communities. At the same time, there may be benefits to supporting additional housing near employment centers, particularly given that almost all residents who commute to jobs within the city and throughout the region do so by car.

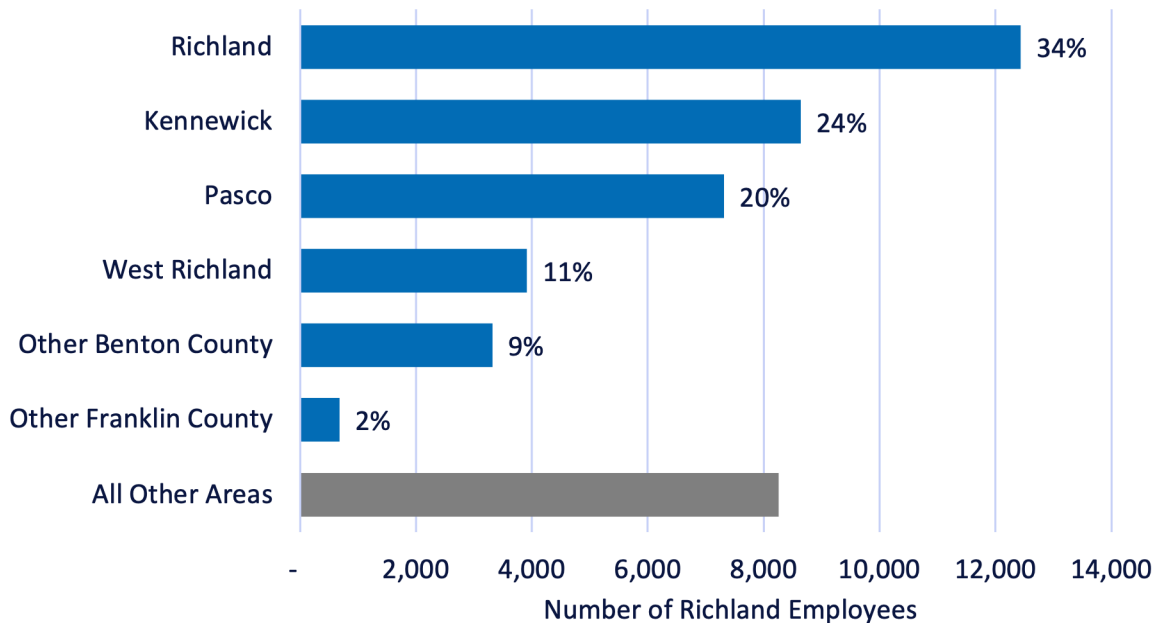


Figure H-35: Home Location of People Employed in Richland, 2023

Data Source: Census Longitudinal Employer Household-Dynamics Tool, 2023

Development and Cost Trends

Figure H-36 shows residential building permits in Richland by housing type from 2016 through 2025, along with permits currently in progress. Permitting activity has ranged from about 470 to 615 permits since 2017, with single-family residences accounting for the majority (56%). Although townhomes make up a relatively small share of permits, they have been consistently issued, with counts ranging from 8 to 65 annually. Multi-family permits have varied year to year, ranging from only 2% of total permits in 2016 to a high of 49% in 2017. However, multifamily permits represent 79% of permits currently in progress, suggesting that recent and upcoming production in Richland is weighted more heavily toward multifamily housing.

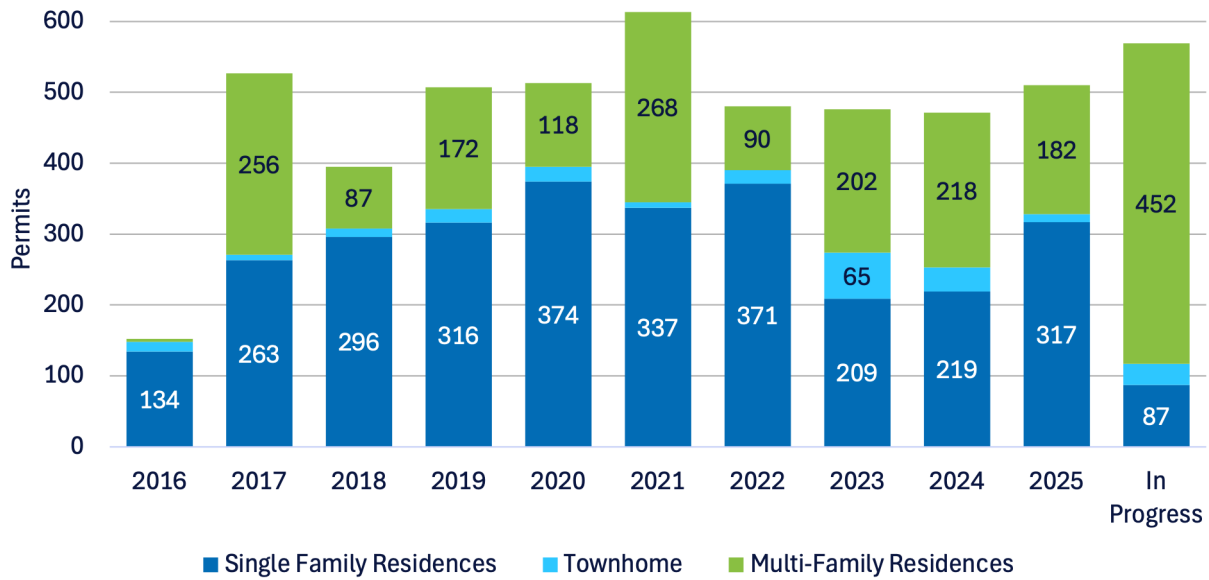


Figure H-36: Permitted Units by Housing Type, 2016-2026

Data Source: City of Richland Permit Data, 2016- 2026

As shown in Figure H-37, most new units are being built in the southern portion of the city, with some clustered in the northwest. However, some units, including multi-family units, are being built closer to downtown (Figure H-38).

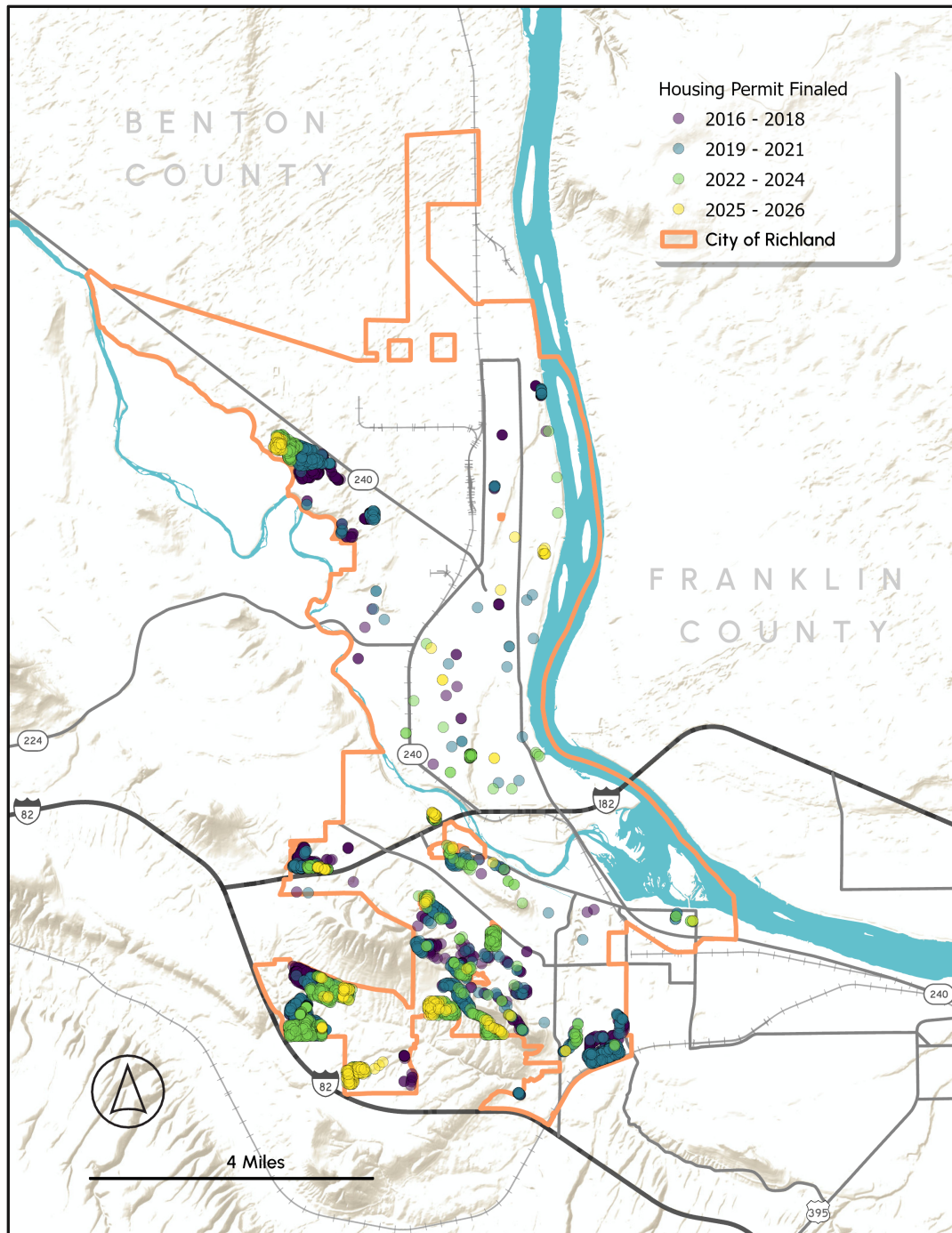


Figure H-37: Housing Construction Permitted by Year, 2016-2026

Data Source: City of Richland Permit Data, 2016- 2026

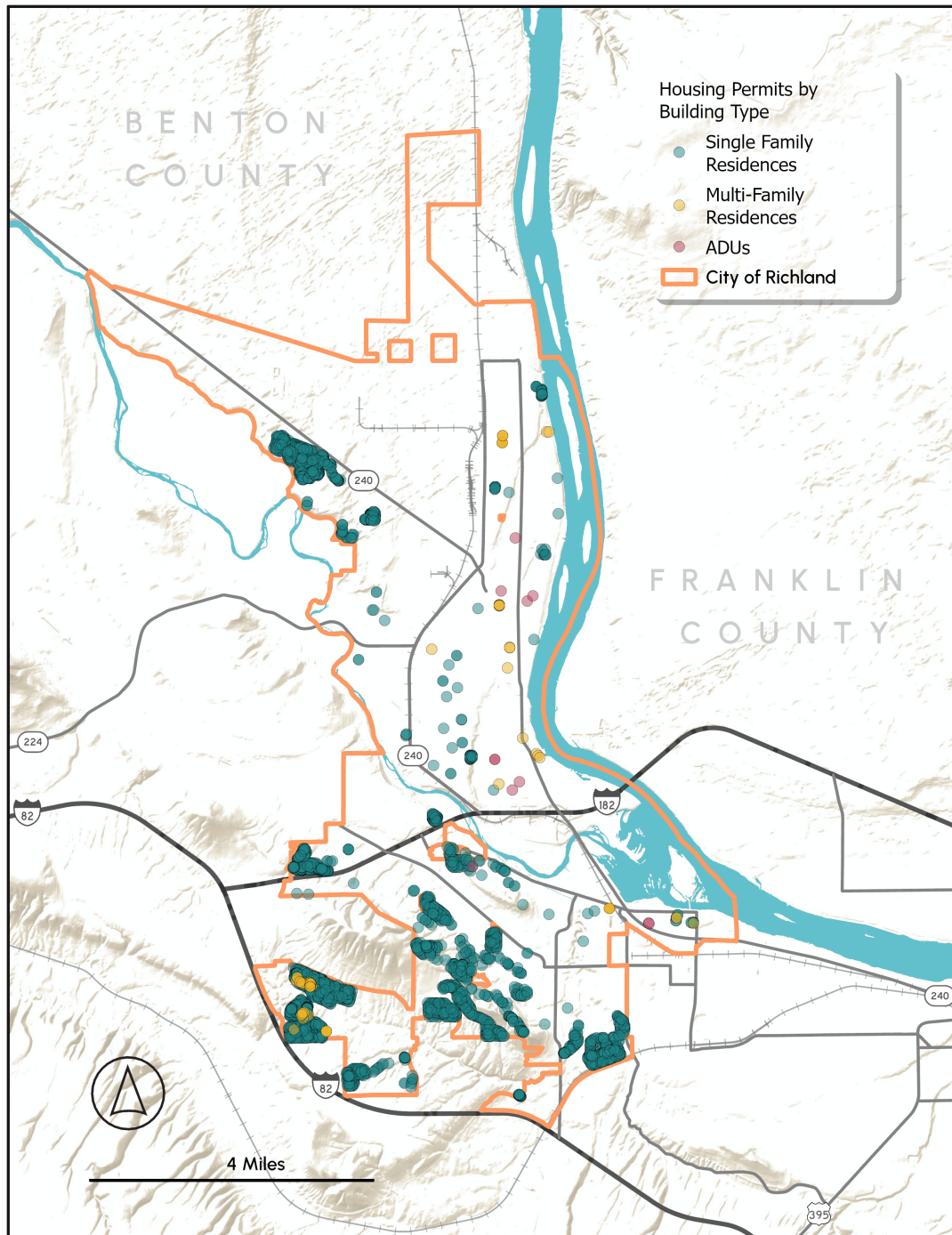


Figure H-38: Permits by Building Type, 2016-2026

Data Source: City of Richland Permit Data, 2016- 2026

FOR-SALE HOUSING VALUES

Figure H-39 shows the Zillow Home Value Index (ZHVI), a measure of typical home value, for Richland and neighboring jurisdictions from 2015 through 2026.¹⁸ As of early 2026, the average home value in Richland is around \$458,000, more than twice what it was in 2015. Across the region, home values increased rapidly between 2015 and 2022 but have been relatively stable since. Because the ZHVI reflects the value of all homes, not just those that sold, this increase indicates higher costs across the entire housing market. As home values rise, so do the down payments and monthly mortgage costs that buyers must cover, making it harder for households to enter homeownership, especially first-time and lower-income buyers.

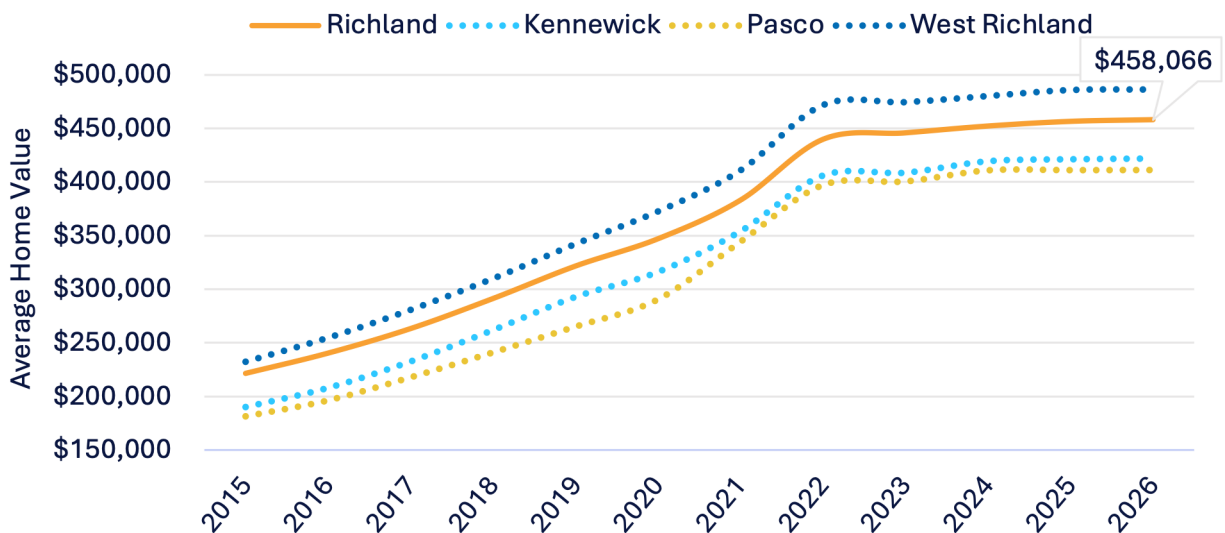


Figure H-39: For-Sale Home Values, 2015-2026

Data Source: Zillow Home Value Index (ZHVI), 2015-2026.

RENTAL HOUSING

Rents in Richland have also steadily increased over the past 10 years, but at a lower rate than sales prices. As of 2026, the average asking rent per unit in the City was around \$1,580, almost 40 percent higher than in 2015. While the average unit size has increased in recent years, from roughly 860 square feet in 2015 to 880 feet in 2026, increases in asking rents per square foot tracked closely with overall asking rents, indicating that increasing unit sizes are not the primary driver of rent increases. Average rents in Richland have consistently remained slightly higher than in the Benton-Franklin MSA.

¹⁸ The ZHVI measures the typical home value and market changes in each city, shown as the weighted average estimated market value of homes in the 35th-65th percentile range.

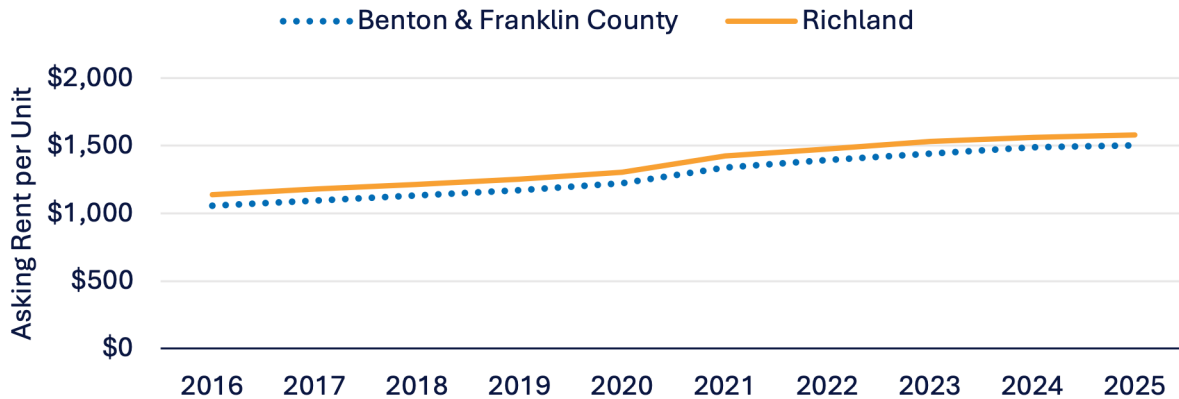


Figure H-40: Rent Rate Trends, 2016-2025

Data Source: Costar, 2016-2026

The figure below shows recent trends in Richland’s multifamily market, including annual deliveries, net absorption, and vacancy rates from 2016 to 2025. Deliveries represent newly completed multifamily units, while net absorption reflects the annual change in occupied units. Together with vacancy, these indicators show how new apartment supply is being absorbed by renter demand.

Richland’s multifamily market has experienced several strong periods of new construction, particularly from 2018 to 2020. Net absorption was also strong during this time, indicating that the market absorbed a substantial share of new units delivered in those years. While absorption was lower in some years, vacancy remained within a moderate range over the period, suggesting continued demand for multifamily housing. Additionally, the increase in vacancy in some years likely reflects the timing of larger projects coming online rather than a sustained weakening of the market.

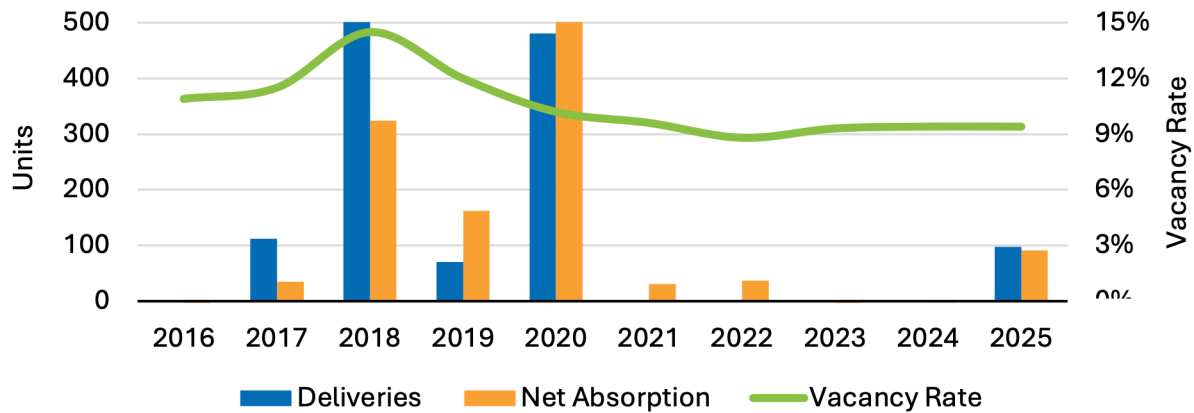


Figure H-41: Vacancy Multi-Unit Rate Trends, Richland, 2016-2025

Data Source: Costar, 2016-2026

Housing Affordability

This section explains, evaluates, and summarizes the City’s relative housing need by income level using Comprehensive Housing Affordability Strategy (CHAS) data from the U.S. Department of Housing and Urban Development (HUD). The data illustrate the affordability levels and housing types of Richland households, based on the MSA’s area median income (AMI).

HOUSING ATTAINABILITY BY INCOME LEVEL

Although owner-occupied housing is more likely to serve moderate- and higher-income households due to the general higher cost of entering homeownership, there are homeowners of all income levels in Richland. Figure H-46 summarizes the extent to which Richland homeowners in different income brackets occupy housing priced above, near, or below levels typically affordable to their incomes (with “affordable” defined as paying around the standard 30% of income on housing costs).

Around 83% of homeowners earning less than 50% of the “area median income” (AMI) and 55% of homeowners earning between 50 and 80% AMI live in housing priced above their income levels and are thus considered cost burdened. However, these may include long-time homeowners with fixed incomes, households whose incomes changed after purchase, or owners whose costs remain high because of mortgages, property taxes, insurance, or maintenance. For these households, ownership may provide stability, and while they still face affordability pressures, they are unlikely to be as vulnerable as if they were renting. Many more scenarios are possible: in many cases, the homes may have been purchased at a much lower cost than their current value. Or perhaps mortgages have been paid off, and the householders have retired with reduced personal income (but substantial wealth), and so while the data, without context, would suggest the family is cost-burdened, that is not the case.

Some owner-occupied homes are also affordable at income levels below the incomes of their current occupants. This can occur when higher-income households choose less expensive homes, when owners bought before recent price increases, or when households remain in homes that no longer reflect their current income level. In practice, this means the ownership market includes some relatively lower-cost units, but those units are not necessarily available to new buyers or to households with lower incomes.

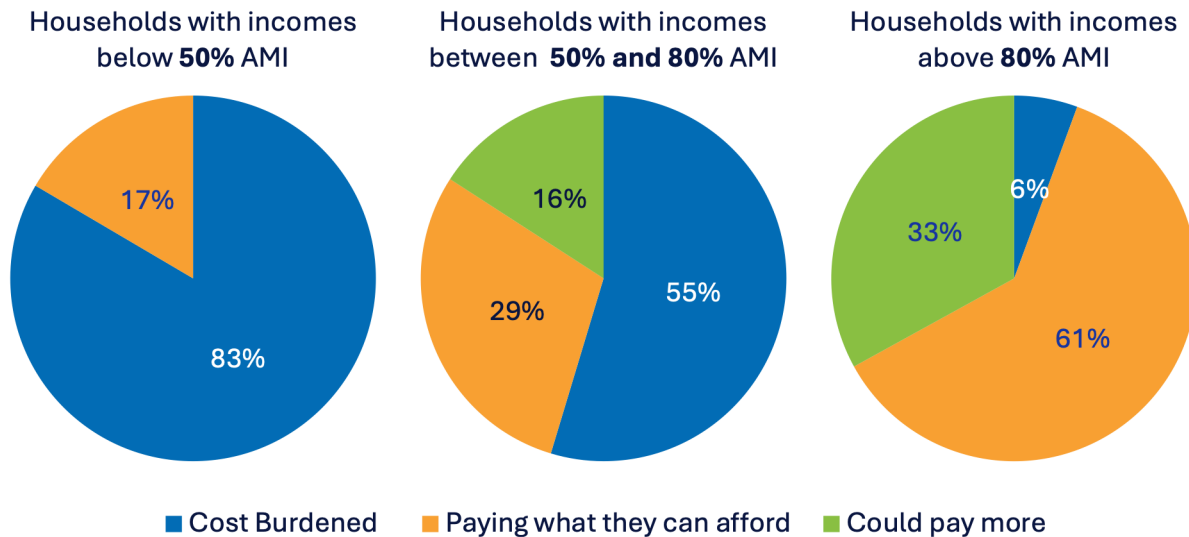


Figure H-42: Attainability of For-Sale Housing, 2022

Data Source: HUD CHAS, 2018-2022

Note: CHAS data groups households by income relative to area median income (AMI) and compares those income levels with housing affordability levels. Households whose costs align with their income category are paying what they can afford, while households in lower-affordability categories may be able to afford more, and those in higher-affordability categories are considered cost-burdened. Since they are divided into broad ranges, these categorizations are approximate.

Figure H-43 shows the same data as the prior figure for renter households. Rental housing typically plays a larger role in serving lower-income households, but the rental stock is not evenly matched to income. Over two-thirds of renters earning less than 50% AMI are cost-burdened, while an estimated one in five renters with incomes between 50 and 80% AMI are cost-burdened. This suggests that the supply of units affordable to the lowest-income renters is limited relative to need. Households in this situation may rely on rental assistance, share housing costs with others, reduce spending on other needs, or accept higher housing cost burdens to remain housed.

At the same time, most moderate- and higher-income households earning over 80% of their income live in units affordable for lower income levels. This may reflect household preference, timing, unit size, location, or the limited availability of housing that better fits a household's needs. In a constrained market, this pattern can reduce turnover in lower-cost rental units, making it more difficult for lower-income households to find housing that matches their income.

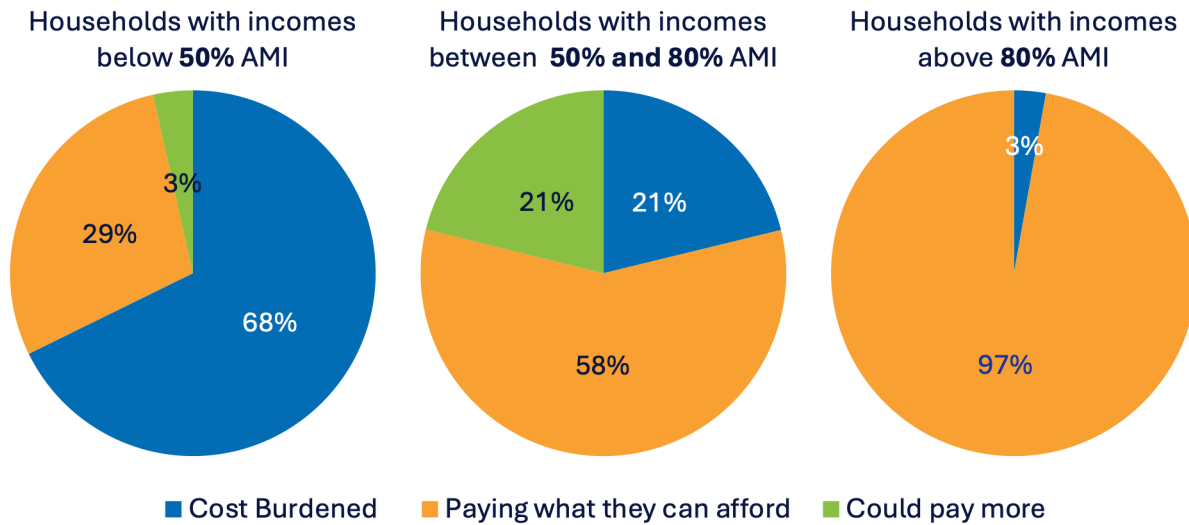


Figure H-43: Attainability of Rental Housing

Data Source: HUD CHAS, 2018-2024.

Note: Since CHAS groups all rentals priced for those above 80 percent of the AMI together, some households earning between 80 and 100 percent of the AMI might occupy housing priced above 100 percent of the AMI but would not be considered “cost burdened.”

HOUSING ATTAINABILITY BY UNIT TYPE

Housing attainability also varies by unit type. Single-family homes, duplexes and triplexes, and multifamily buildings tend to serve different households because they differ in size, tenure, age, and cost. In Richland, households across the income spectrum live in several housing types, but the distribution differs between renters and owners.

Rental housing serves households at a wider range of income levels than ownership housing. Multifamily units are especially important for lower- and moderate-income renters, but they also house some households earning above the AMI level. This likely reflects both preference and market conditions. Some higher-income households may prefer the flexibility or lower maintenance burden of renting, while others may remain renters because ownership options are costly or limited.

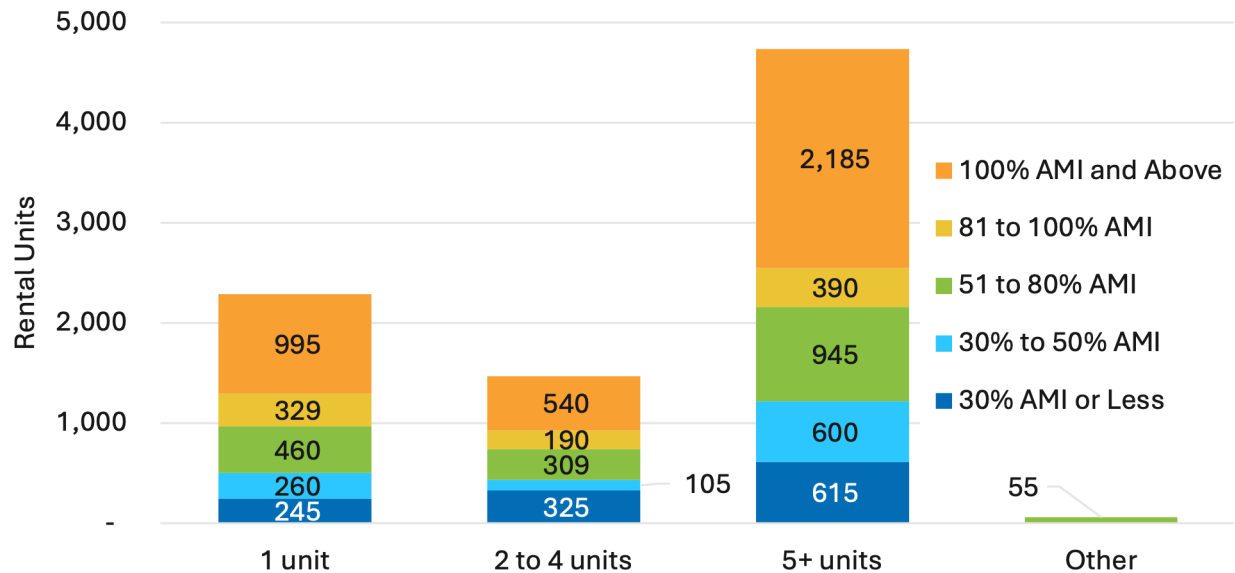


Figure H-44: Number of Rental Housing Units and Households by Income, 2022

Data Source: HUD CHAS, 2018-2022

Owner-occupied housing is more common among households earning above AMI, particularly in single-family homes. At the same time, some lower- and moderate-income households also own their homes. These may include longtime owners who purchased before housing price and interest rate increases, those with low ongoing costs because they have paid off their mortgages, or households experiencing financial strain from mortgages, taxes, insurance, or maintenance.

Displacement Risk

Increased housing costs can also increase the likelihood that residents will be priced out of their homes, especially if they are renting. The Growth Management Act requires jurisdictions to assess displacement risk, and the Washington Department of Commerce categorizes residential census tracts throughout the state by the likely risk of household displacement. The risk is determined by factors such as the share of low-income households, the rent burden rate, and changes in racial composition and household income. The methodology also considers market factors such as rising home values, increased rents, rapid appreciation, and development pressures.

As shown in Figure H-45, most of the city is considered to have a low risk of displacement, though there are a few exceptions. A small portion of the “alphabet homes” neighborhood (near the intersection of Williams Blvd. and Wright Avenue) is categorized as having a “high” risk of displacement due to demographic changes and accelerating market appreciation. An adjoining tract of the “alphabet homes” has a “moderate” risk of displacement due to its appreciated housing values and social vulnerability of current residents (determined by factors such as rent burden, race, and education), though it has not had the same level of demographic

change. Another tract north of the “alphabet homes,” between Stevens Drive and George Washington Way, also has a moderate risk of displacement due to the social vulnerability of existing residents, despite stable market conditions and no demographic change.

The few tracts that have moderate or high displacement risk can all be attributed to slightly different factors, whether the composition or social vulnerability of the current population, demographic shifts, or rapid cost appreciation. Understanding which areas face high displacement risks and the specific factors that influence those risks may allow the City to work to help residents and businesses stay in their neighborhoods. Programs that help homeowners make costly repairs and rehabilitation (such as the Owner-Occupied Rehabilitation Program) are one example of a city effort that may help reduce the displacement pressures of existing residents.

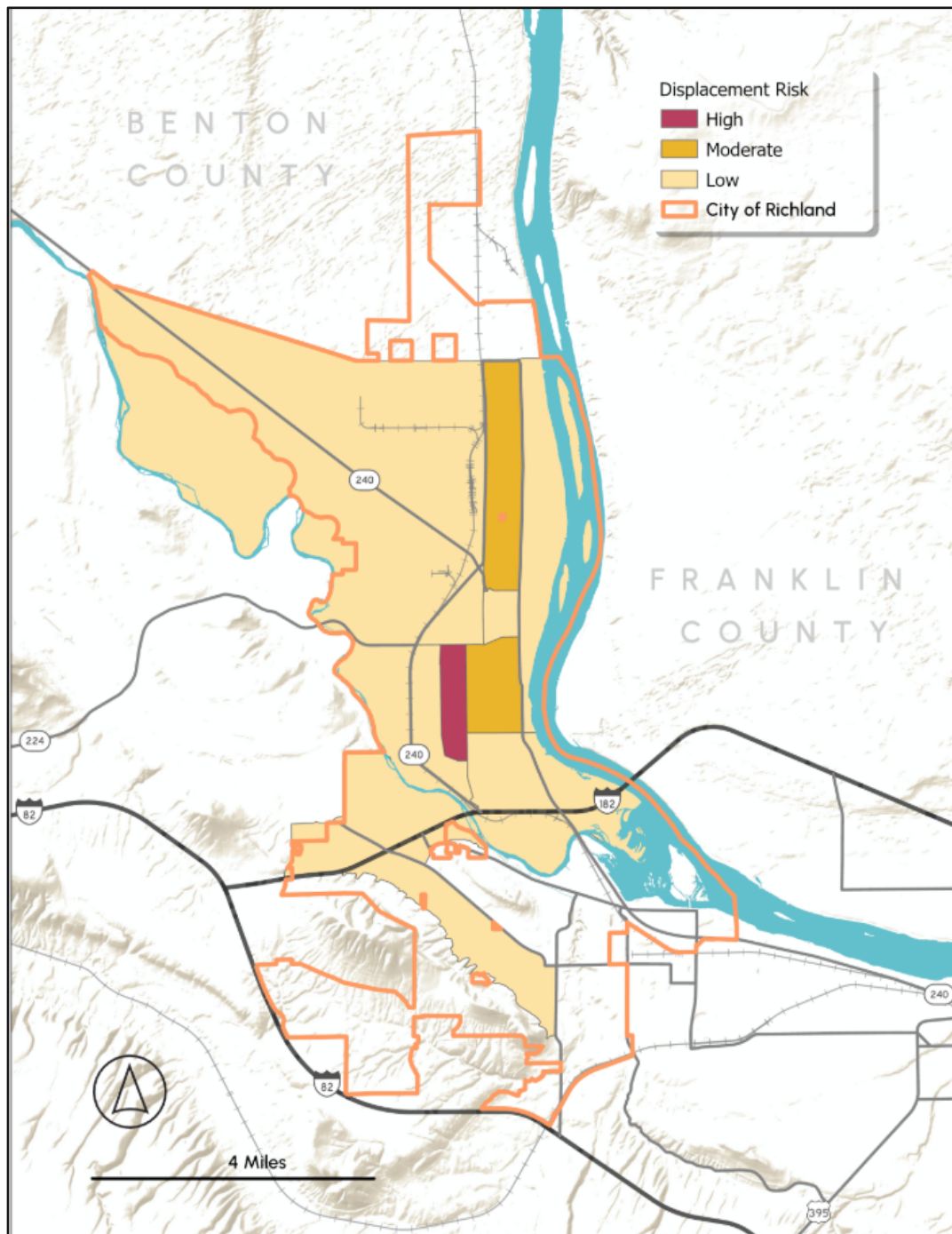


Figure H-45: Displacement Risk by Census Tract

Data Source: Washington Department of Commerce, State Displacement Risk Map

Note: Census tracts are classified as having a low, moderate, or high risk of displacement based on three primary factors, each of which is informed by multiple indicators measured relative to the county (modeled after work of [Lisa Bates, 2013¹⁹](#)). These include social vulnerability (BIPOC share, renter share, median household income), demographic change (shift in BIPOC Population and median household income), and market trend (average rent and rent growth). The map and further description of methodology are found on the Washington Department of Commerce [website](#).²⁰

Racially Disparate Impacts

Housing needs can vary by race, particularly since in Richland, people of color often have lower incomes than white residents. As shown in Table H-9, Black and Hispanic or Latino households in Richland have median incomes that are 12% and 18% lower, respectively, than the overall population. Lower ownership rates among some groups may point to barriers to access to mortgage credit, down payments, family wealth, or appropriately priced for-sale housing.

Table H-9: Household Income by Race and Ethnicity

	RICHLAND	KENNEWICK	PASCO	BENTON COUNTY	FRANKLIN COUNTY
Black or African American	\$84,200	\$92,100	-	\$92,400	-
American Indian and Alaska Native	\$97,500	\$43,700	\$80,500	-	\$80,500
Asian	\$120,600	\$73,400	-	\$96,100	\$109,500
Some Other Race	\$82,000	\$54,800	\$83,600	\$60,500	\$83,300
Two or More Races	\$84,500	\$68,800	\$69,300	\$77,700	\$69,700
White Alone, Not Hispanic or Latino	\$96,800	\$78,200	\$103,400	\$94,700	\$102,300
Hispanic or Latino	\$79,000	\$67,000	\$74,600	\$69,800	\$74,500
Overall	\$95,813	\$73,576	\$85,586	\$89,874	\$86,714

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014 and 2020-2024

Notes: Orange highlighting indicates median income above the overall median. Native Hawaiian and Other Pacific Islander wage data were removed due to unreliability.

Only 49% of Hispanic or Latino households and 56% of other households of color are homeowners (Figure H-46). With lower median incomes and higher rental rates, Hispanic households are more likely than White households to spend over 30% of their income on rent (Figure H-48).²¹ The difference between white and Hispanic households is more pronounced in Richland than in Kennewick or Pasco. Furthermore, while the cost-burdened share of Hispanic or Latino households in Richland increased since 2012, the share among white decreased.

¹⁹ Bates, L. K. (2013). Gentrification and Displacement Study: Implementing an Equitable Inclusive Development Strategy in the Context of Gentrification. Urban Studies and Planning Faculty Publications and Presentations. Retrieved from https://pdxscholar.library.pdx.edu/usp_fac/83/.

²⁰ See <https://www.commerce.wa.gov/draft-displacement-risk-map-public-comment-through-september-29/>.

²¹ There is insufficient data on cost burden rates among other people of color in Richland; therefore, this information has not been included in this analysis.

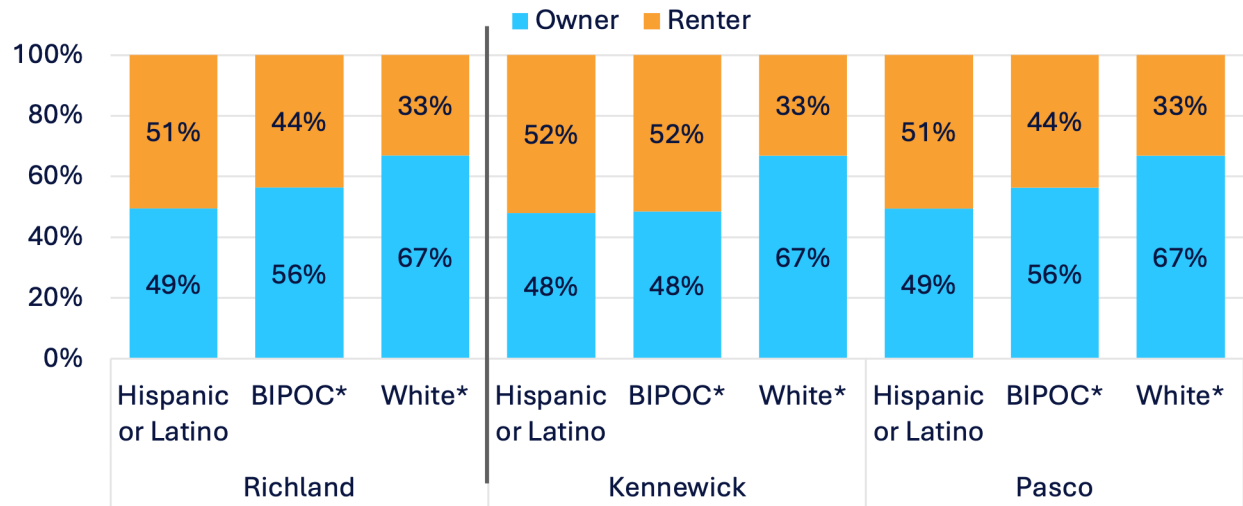


Figure H-46: Household Tenure by Race and Ethnicity, 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2020-2024. *Denotes not Hispanic or Latino.
 Note: Values for West Richland not available.

Although Hispanic or Latino households are disproportionately burdened by housing costs, the homeownership rate of both Hispanic or Latino households and other people of color has increased by 6 percentage points since 2014, while the rate among White households has slightly decreased. **Since homeownership often provides more stable housing costs and helps households build wealth over time, this increase in homeownership among Hispanics and other households of color could also reduce the cost-burden gap and the overall wealth gap.**

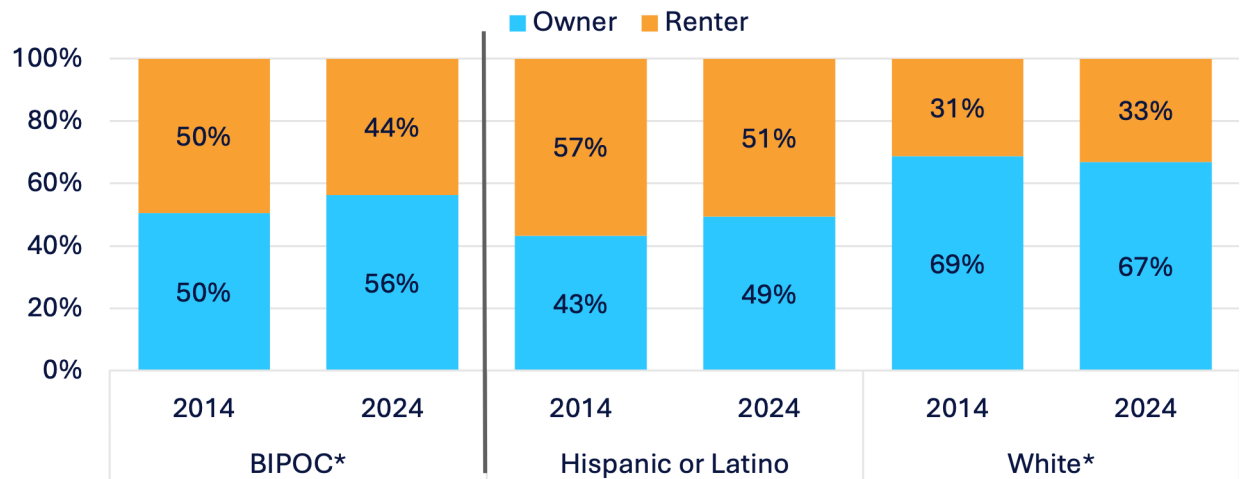


Figure H-47: Richland Tenure by Race and Ethnicity, 2014 to 2024

Data Source: US Census Bureau ACS 5-year Estimates, 2010-2014, 2020-2024. *Denotes not Hispanic or Latino.

Figure H-48 shows the share of cost-burdened households by race and ethnicity in Richland and neighboring jurisdictions in 2012 and 2022, with error bars indicating the confidence interval

around each estimate. In Richland, an estimated 44% of Hispanic or Latino households were cost-burdened in 2022, up from about 33% in 2012, while the share of White, non-Hispanic households fell from roughly 43 to 32% over the same period. While there is overlap they would indicate a widening disparity in housing affordability in Richland, with Hispanic or Latino households becoming more likely to be cost burdened over the decade while White, non-Hispanic households became less likely, suggesting that rising housing costs have fallen unevenly across racial and ethnic groups

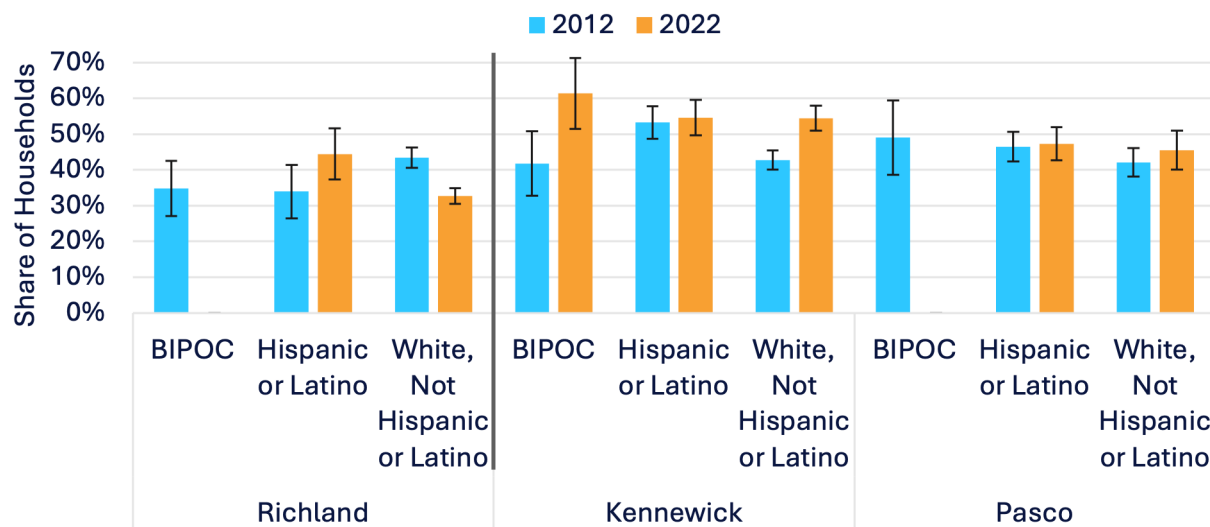


Figure H-48: Cost Burden by Race and Ethnicity, Renters, 2012 and 2022

Data Source: HUD CHAS, 2008-2012 and 2018-2022

State Housing Policy Requirements

Many Washington Cities applied for and received one-time grants to create Housing Action Plans after the passage of HB 1923 (2019), but Richland did not seek funding for the program and did not create a HAP to guide housing development.

Nonetheless, the City has a variety of programs and policy-focused actions underway to help meet housing targets and make it easier to build a wider range of housing types. The figure below summarizes the City's compliance status with recent state housing legislation, including requirements already met, reforms adopted by ordinance, and updates due in the coming years.

Figure 49. Status of State-Mandated Housing Regulation Updates

REQUIREMENT	STATUTE	STATUS
Regulations for encampments on religious property	RCW 35.21.915; RCW 35A.21.360	Compliant
Limits on unrelated occupants	RCW 35.21.682; RCW 35A.21.314	Compliant
Equal treatment of manufactured homes	RCW 35.21.684; RCW 35A.21.312	Compliant
Allow STEP housing in specified zones	RCW 35A.21.430; RCW 35.21.683 (HB 1220, 2021)	Adopted (Ord. 2022-19)
Minimum parking requirements (SB 5184)	SB 5184 (2025)	Adopted (2026 parking ordinance)
Residential parking standards (SB 6015)	RCW 36.70A.622	Adopted (2026 parking ordinance)
Provisions for co-living housing	RCW 36.70A.535	Adopted
Waiver of system development charges for affordable housing	RCW 35.92.380 (Ord. 2025-26)	Adopted (Ord. 2025-26)
Provisions for building re-use (housing units in existing buildings)	RCW 35A.21.440; RCW 35.21.990	In progress – due June 30, 2026
Provisions for ADUs	RCW 36.70A.680–.681 (HB 1337, 2023)	In progress – due December 31, 2026
Provisions for middle housing	RCW 36.70A.635 (HB 1110, 2023)	In progress – due December 31, 2026
Provisions for proportional impact fees	RCW 82.02.060 (SB 5258, 2023)	In progress – due June 30, 2027
Standards for residential retrofit	RCW 36.70A.810, .812	In progress – due June 30, 2027
Provisions for unit lot subdivision	RCW 58.17.060(3)	In progress – due July 27, 2027
Provisions for lot splits	RCW 58.17.145 (HB 1096, 2025)	In progress – due July 27, 2027
Density bonus for affordable housing on religious property	RCW 36.70A.545	Under review

Richland administers assistance programs for income-eligible homeowners. The **Homeownership Assistance Program** provides households earning up to 80% of AMI with zero-interest forgivable loans to assist with a down payment. The loans, which can be up to \$50,000, are forgivable up to 610 years.

In addition, the **Owner-Occupied Rehabilitation Program** offers deferred low-interest loans to households earning up to 80% of the AMI to assist with rehabilitation and restoration. These loans can be particularly beneficial in certain neighborhoods with older housing stock, such as the “alphabet homes”.

There are also multiple affordable housing and disability and special needs housing providers in the City of Richland. The figure below summarizes these current organizations and the type of housing or housing assistance they provide.

Figure 50. Housing Providers in City of Richland

ORGANIZATION	SERVICES
4th Dimension	Transitional housing for men in recovery (primarily mental health or substance use)
Benton County Human Services	Emergency shelters through renting hotel units
Benton Franklin Community Action Connections	Rent assistance
Consistent Care	Wrap around services for patients with Opioid Use Disorder.
Catholic Charities	Affordable housing
Columbia Basin Veterans Center	HUD-VASH Program
Domestic Violence Services of Benton and Franklin Counties (DVSBF)	Transitional housing for individuals in recovery (primarily domestic violence)
Elijah Family Homes Kennewick	Transitional housing for families in recovery (primarily substance use)
Habitat for Humanity Tri-County Partners	Affordable homeownership
Kennewick Housing Authority	Public housing, affordable housing, HCV
Lutheran Community Services	Case management and rent assistance
Pasco-Franklin Housing Authority	Public housing, affordable housing, HCV
Snipes H3	Transitional housing for young adults aged 18-24.
Washington Monitoring/Seasons	Transitional housing for individuals in recovery

Summary of Community Engagement Findings Focused on Housing

A community engagement plan was created to help guide the outreach and involvement for communities affected by the Comprehensive Plan update for the City of Richland. As a part of this effort, the city launched a [new web hub](#) to provide a centralized location to learn more through education and email updates, learn about surveys and events, and to retrieve project information. The stakeholders targeted for outreach include residents, workers and business owners in Richland, community groups, investors and developers and public sector groups. The city set out to apply diverse methods to create an equitable and accessible process.

To support the development of the Housing Element, various outreach efforts were completed including a community survey, interactive displays, open houses, and interviews.

The key housing focused findings from the community survey released in 2025 included the following.

- Approximately 88% of survey respondents expressed concern about rising housing costs and lack of affordable housing. The only concern above this was increased traffic congestion.
- Around 57% of survey respondents felt Richland needed more homeownership opportunities.
- In terms of the types of housing Richland needs more of, nearly half of the respondents identified cottage housing, mid-rise mixed-use housing, and traditional single-family housing.
- Safety was selected as the most important factor in choosing a place to live.
- The top three housing priorities were affordable housing, housing variety, and sustainable housing designed to be more energy efficient and use less water.



The consultant team added interactive poster displays at the Richland Public Library in early 2026. This display was created to inform the community and encourage public input on Richland's comprehensive plan update. It aimed to engage a wide range of residents by inspiring reflection and conversation about the city's housing history and how past approaches differ from current practices. Through the exhibit, the city hoped to spark community discussion and generate ideas about future housing strategies and solutions to address today's complex housing challenges. A total of 40 responses were received from the community, which were summarized below.

- When asked what they liked about their house and neighborhood, respondents liked the access to trees and green spaces, gathering spaces, dog-walking, and walkability.
- A prompt about what they would change about their house or neighborhood, highlighted the need for more sidewalks, smaller block sizes, traffic calming, streetlights, more gathering spots, and more diversity in zoning.
- When asked about what housing affordability meant, people noted being able to pay for housing costs with less than half their income or 20 percent of a household income.
- When asked about barriers to affordable housing, respondents noted parking requirements, too low of income limits, lack of multi-use zoning, the rich remodeling housing to charge more money from renters, and over-regulation.
- Responses on the importance of expanded housing options focused on providing housing to meet more diverse needs (such as duplexes, options to keep families together) and housing for smaller households.
- Comments about what they wanted to see available for future generations focused on greenways, more affordable diverse housing, walkable neighborhoods, homes with reliable plumbing, and funding for Accessory Dwelling Units (ADUs) so seniors can live in them.

The top priorities overall were:

- Safer sidewalks and more accessible streets
- Housing more affordable for everyday households
- Housing options for households at different stages of life
- Walkable, connected neighborhoods that preserve community character
- Greener, more inclusive neighborhoods for future generations

ECONorthwest, a partner on the consulting team, held eight interviews in Spring 2026 with a broad range of different housing stakeholders. These interviews were designed to gather insights on changes in Richland's housing landscape over the past decade and to identify key housing needs and priorities. Interview participants included representatives from organizations such as Benton County Human Services, Columbia Basin Veterans Center, Domestic Violence Services of Benton and Franklin Counties (DVSBF), Habitat for Humanity Tri-County Partners, Home Builders Association of the Tri-Cities, Lutheran Community Services, Real Estate Association, Tri-Cities Association of Realtors, and housing nonprofit organizations such as Snipes H3.

In addition, ECO supported the City of Richland in facilitating a public Housing Open House on April 22, 2026. The following section summarizes comprehensive findings from engagement.

ENGAGEMENT SUMMARY

Need for diverse housing options

Stakeholders consistently emphasized the need for a broader range of housing types and price points in Richland and across the Tri-Cities. While single-family homes remain in high demand, they are increasingly out of reach for many households especially as availability of developing land becomes more limited. There is growing recognition that the region must expand options such as

townhomes and duplexes to accommodate different household sizes, life stages, and income levels. In particular, stakeholders noted the importance of creating pathways to homeownership, not just rental housing, to support long-term stability and wealth-building.

- » “[We need] housing that aligns with local wages – diversification of housing types, starter homes, middle housing, and beyond.” – Open House Participant
- » “Most recently within the last 4-5 years, there has been concentrated effort for townhomes. I think the biggest driver is...[let’s] provide other options for consumers to live and get the price down. Densifying can get the price down.” - Interviewee
- » “The well-intended growth management act has had the unintended consequence of creating land scarcity.” – Open House Participant
- » “Variety means...middle housing, ADUs, quadplexes.” – Open House Workshop Poster
- » “[A] need is for families...above 80% AMI but below 120%. Those are the households most buyer ready...The problem is there is nothing in the market for them.” - Interviewee

Regional coordination opportunity

While stakeholders pointed to strong collaboration among developers and some existing partnerships, service providers addressing homelessness and housing instability identified a need for more intentional coordination across the Tri-Cities. Fragmentation across jurisdictions and organizations can lead to inefficiencies, duplicated efforts, and missed opportunities to align resources. Strengthening regional coordination could improve service delivery and create a more cohesive housing response across Richland, Kennewick, Pasco, and surrounding areas.

- » “[Richland’s] comprehensive plan doesn’t need to mirror Pasco’s or Kennewick’s, but [it] need[s] to [recognize] overlapping services and support...And include West Richland...The Tri-Cities Consortium [is] the closest we seem to working together.” - Interviewee
- » One interviewee from a nonprofit organization noted their strong “partnerships with local housing authorities” or “community collaboration with organizations and landlords” to meet their clients’ housing needs.

Supportive development environment

Developer stakeholders consistently noted that Richland is viewed as a relatively supportive environment for housing development. Predictable zoning, streamlined permitting processes, and clear fee structures were cited as key strengths that make the city attractive to developers. Maintaining and enhancing this predictability – while balancing affordability goals – was seen as critical to continuing to attract housing investment. A few areas of improvement to consider:

predictable and timely permitting, faster plat approvals, streamlined regulations, and increased access to build-ready lots.

- » *“Anything streamlining the permit process...Richland is quick to bring things around. Making it efficient while living up to code, that relationship is big. [Developers] are ok [even if you charge them a little more] because [the city is] easy to work with.” - Interviewee*
- » *“Predictability is a great thing to have... Richland has been good at having zones with predictable charges inside of it.” - Interviewee*
- » *“Additional tax burdens...become part of the overall cost structure that must be accounted for in future projects...[making affordability] increasingly difficult to maintain.” – Open House Comment*
- » *Open house participants highlighted the importance of keeping Richland a development supportive environment through reasonable “cost, fees for building, investment properties” and “keep[ing] maintenance costs down”.*

High need populations

Stakeholders identified several populations with particularly acute housing needs, often facing overlapping barriers such as low or fixed incomes, behavioral health challenges, or systemic inequities. These include individuals with mental health or substance use disorders, transition age youth (18-24 years old), migrant and immigrant households, and seniors on fixed incomes. Many of these groups face limited housing options, barriers to eligibility, or difficulty maintaining housing stability without supportive services.

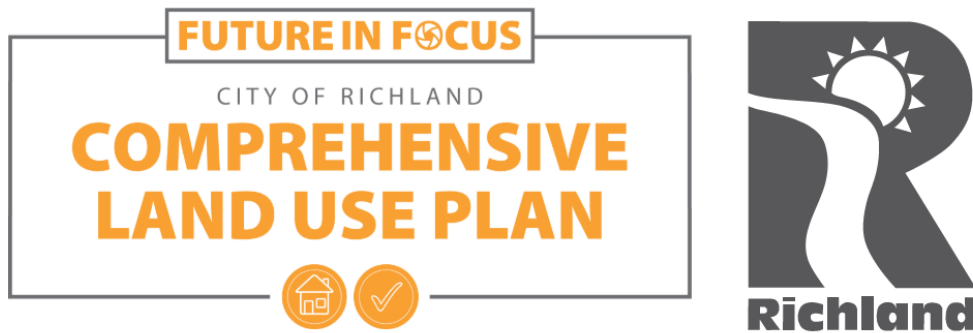
- » *“The population with the greatest instability is chronic behavioral health disorders – [both] mental health and substance abuse...[We are also seeing an] increase in elderly housing instability...[those with] no retirement, fixed income.” - Interviewee*
- » *“Our young adults are homeless, but not hopeless...[but] our youth are being left behind.” - Interviewee*
- » *“With the immigrant population, they can’t tap any of those resources...Housing is [our] number 1 [service gap]...There is a lot of housing inventory in the Tri-Cities, but it’s not affordable. To the population, history of evictions, lack of income, language barriers, and families with children.” – Interviewee*

Photographs from housing open house held in Spring 2026





Examples of Housing Focused Community Outreach Material

**Which housing types do you think Richland needs more of?**

Richland is expected to have a population of 91,890 residents by the year 2046.

Planning for future expected growth is important to make sure all residents have access to the housing, amenities, and infrastructure they need everyday. Additionally, there is a state-wide emphasis on expanding housing options beyond traditional single-family style development to broaden choices and foster better affordability.





"INFILL" HOUSING IN RICHLAND

FUTURE IN FOCUS

CITY OF RICHLAND

COMPREHENSIVE PLAN



ACCESSORY DWELLING UNITS (ADUs) AND OTHER FORMS OF RESIDENTIAL INFILL, SUCH AS MIDDLE HOUSING, ARE SOME WAYS TO MEET THE NEEDS FOR NEW HOUSING IN OUR COMMUNITY

NEW LAWS MAKE THE PROCESS TO BUILD MIDDLE HOUSING & ADUs EASIER

Accessory Dwelling Units (ADUs) are dwelling units added to a property that already has a house on it. An ADU has all the basic facilities needed for day-to-day living independent of the primary residence (a kitchen, bathroom, and sleeping area.)

"Middle Housing" means buildings that are compatible in scale, form, and character with single-family houses and contain two or more attached, stacked, or clustered homes (examples include duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing).



RICHLAND MUST ALLOW TWO ADUs PER LOT: New state legislation (HB 1337; Laws of 2023) directs the city must update codes to generally allow 2 ADUs per lot. ADUs may be attached, detached, or a combination of both, or may be conversions of existing structures. The City may include code provisions for public health, safety, building code, and environmental permitting requirements to an ADU that would also be applicable to the principal unit.

MIDDLE HOUSING OPTIONS WILL BE EXPANDED IN RICHLAND: State legislation directs the city to update zoning codes to allow some types of middle housing (HB 1110; Laws of 2023). Middle housing is expected to be "house scale" with multiple units, generally in one building. The Planning Commission will review proposed amendments and options and consider community feedback.

ALLOWING AND ENCOURAGING NEW INFILL HOUSING CONSTRUCTION HAS BENEFITS:

Improved Housing Variety

- ▶ More variation in housing types better accommodates our state's changing demographics, with more aged adults (seniors) and smaller household sizes

Accommodates People at Different Life Stages

- ▶ Aging people may want different options to downsize without leaving their community

Increased Affordability

- ▶ Homeowners with ADUs could have an opportunity to rent out the unit (and offset their mortgage)
- ▶ ADUs could provide a place for family members to stay with good privacy and proximity

Neighborhood Compatibility

- ▶ Opening up single-family neighborhoods to more diverse housing and household types may help remedy historic economic (and racial) exclusion

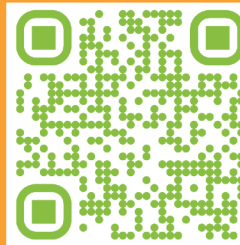
Lower Climate Impacts

- ▶ Smaller and attached units generally use less energy
- ▶ When established neighborhoods add infill housing, it lowers demand for development occurring in the urban fringe (preventing long travel distances, and avoiding sprawl into undeveloped lands like farms)

What do you think?

Visit the City's
Project Website to
learn more about the
FUTURE IN FOCUS
planning efforts:

RichlandWa.gov/CompPlan



Adapted from "ACCESSORY DWELLINGS IN WASHINGTON STATE" Fact Sheet (2023) by the Wash. State Department of Commerce.



Richland Comprehensive Plan Update

PLANNING COMMISSION MEETING
August 26, 2026



Comprehensive Plan Overview & Process



Housing Availability and Affordability

**The City
does not
build
housing**

**The City
regulates
housing**

Potential steps to take:

- Remove regulatory barriers, add policies
- Support partnerships and programs
- Provide incentives and infrastructure
- Development Agreements (with Covenants)
- Subarea planning
- Studies

Housing Element Purpose

- Develop strategies to **accommodate housing needs and projected housing targets**
- Support the City's existing housing stock and guide new development to **support a range of income levels, ages, and abilities**
- Identify goals and policies providing a framework for **meeting short- and long-term housing needs**

WHY DO WE HAVE A HOUSING ELEMENT?

- Required element under growth management act (GMA)
- Provides policy background and broad direction for housing programs to meet **community goals**
- Provides a framework for **future planning decisions** and outlines goals & objectives the City plans to implement to meet local needs

Richland needs a range of housing types, sizes, and accommodations to serve the diverse needs of the growing community and to serve existing residents seeking different housing accommodations over time

MAIN
IDEA

WHAT WAS CONSIDERED?

Reviewed City's recent development trends, community goals, and adopted plans, such as:

- Benton County Countywide Planning Policies
- Tri-Cities Assessment of Fair Housing
- Benton County Local Homeless Plan
- Richland Strategic Plan
- Tri-Cities Consolidated Plan

Reviewed State Guidance, such as:

- Middle housing & Accessory Dwelling Unit requirements
- Shelter, Transitional, Emergency, and Permanent supportive (STEP) housing requirements
- Mitigate displacement risks
- Potential racially disparate impacts
- Housing Elements and regulations

PUBLIC ENGAGEMENT: What we heard

Engagement efforts included: open houses, interviews, and a community survey

- Most survey respondents concerned about rising housing costs and lack of affordable housing options (88%), including opportunities for homeownership.
- Desire for a greater variety of housing (cottage, mid-rise)
- Other priorities included safer sidewalks, more walkable and inclusive communities for future generations.



PUBLIC ENGAGEMENT: Community Survey

What 4 key areas should be prioritized for improvement in the City?



PUBLIC ENGAGEMENT

Interactive Display (Library) Winter 2026

Why is it important for the community to expand housing options?

- *So that people of diverse professions and backgrounds can live in a common location. This drives diversity and allows humans to develop empathy and community.*
- *All neighborhoods need duplexes.*
- *More choices for seniors keep families closer together.*
- *Rent increases challenges. Single parents cannot afford so much. It puts extra pressure on our children.*
- *Because I want a big room for me and my dog.*

Other priorities: Safer sidewalks, walkable connected neighborhoods, more housing options, more inclusive neighborhoods for future generations



*because I
want a big
room for
me and my
dog.*

What We Heard: Housing Survey Results

Which types of housing does Richland need more of?



50%

Cottage Housing



49%

Traditional Single-Family



48%

Mid-Rise Mixed-Use

57% of survey respondents felt Richland needed more homeownership opportunities.

Respondents' top three housing priorities:

- 1. Affordable housing**
- 2. Housing variety**
- 3. Sustainable housing**

PUBLIC ENGAGEMENT

Interactive Display (Library) Winter 2026



For Housing, what does “Affordability” mean to you?

- *Something my disability check covers with money left over for other expenses and leisure.*
- *Affordable housing costs that are less than 50% of your average monthly household income – while some referenced 20% & 25%.*
- *Ability to access on a single income.*

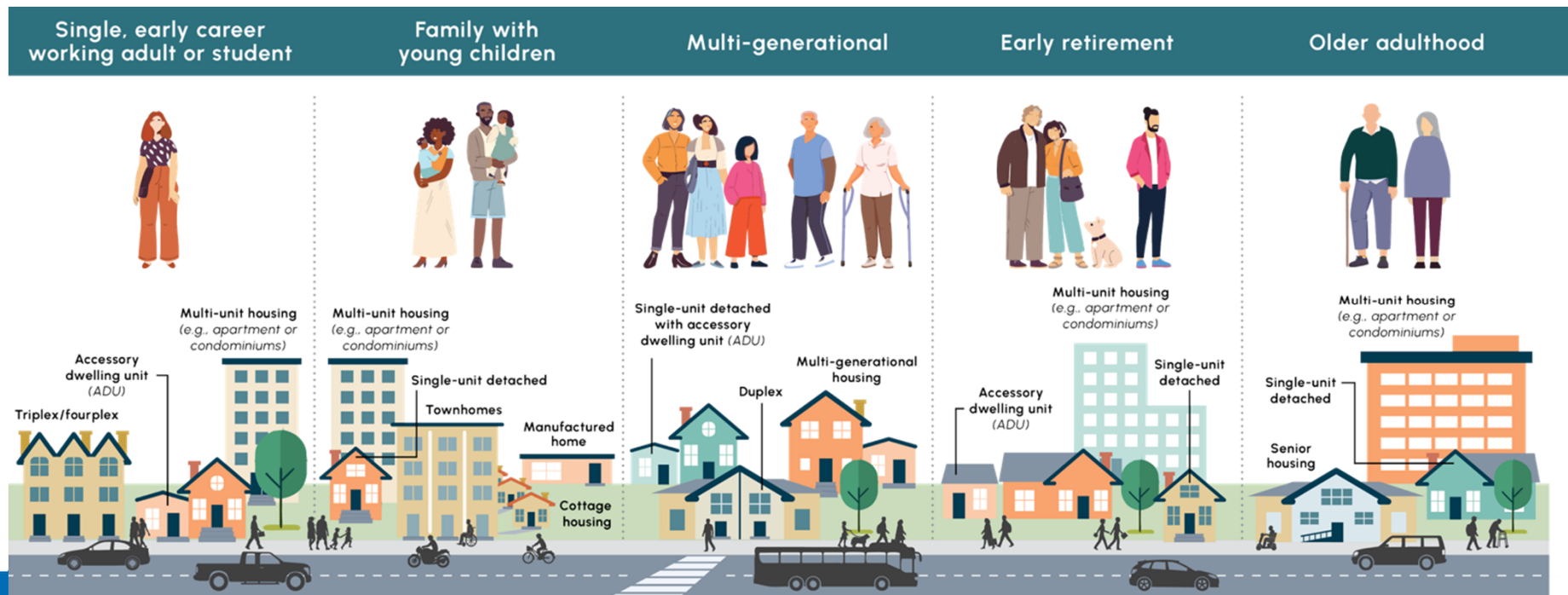
What barriers to affordable housing are most impactful?

- *Multi-use zoning. Less single-family, more diverse housing.*
- *Income limits are too low - more people need support than they have access & there are not enough subsidized options.*
- *Parking requirements.*
- *The rich buying all the housing to turn around and charge thousands in rent to only benefit themselves*
- *Over-regulation.*

HOUSING ELEMENT: KEY ANALYSIS FINDINGS

- 64% of households are small, consisting of 1-2 people
- Highest share of residents age 65+ in region, 17% of total city population

Expanding mix of housing types to meet needs at different life stages.



HOUSING ELEMENT: **KEY FINDINGS**

- Homeownership rates high **but 36% renting & increased over time** – likely continue, with more options for ADUs middle & multi-unit housing.
- Planning for 14,000 additional homes by 2046.
- **Provide broad mix of homes**, tenures, and affordability levels to meet needs of current and future residents across a range of household sizes, incomes, and life stages.



HOUSING ELEMENT: HOUSING TARGET REQUIREMENTS

RANGE OF HOUSING OPTIONS

Apartments		Multiplex				Traditional Single Unit
0 to ≤30% AMI <i>Non-PSH</i>	0 to ≤30% AMI <i>PSH</i>	>30 to ≤50%	>50 to ≤80%	>80 to ≤100%	>100 to ≤120%	>120% AMI
1,130	1,789	2,817	1,988	1,092	1,237	4,102

14,155 new homes will be needed over the next 20 years in the City of Richland

In addition, there will also need to be:

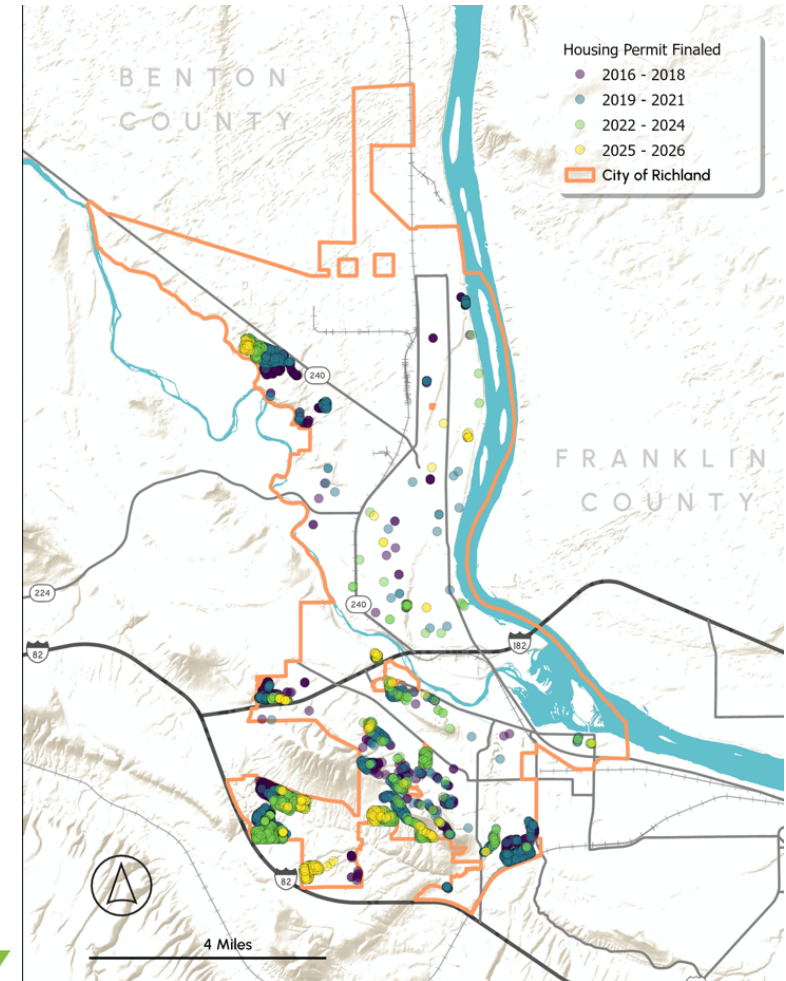
52 emergency housing beds (temporary housing)

HOUSING ELEMENT: **KEY FINDINGS**

Single-family detached homes (2/3 of pop) remain dominant form of new housing.

Multi-unit housing construction increasing, smaller lot sizes.

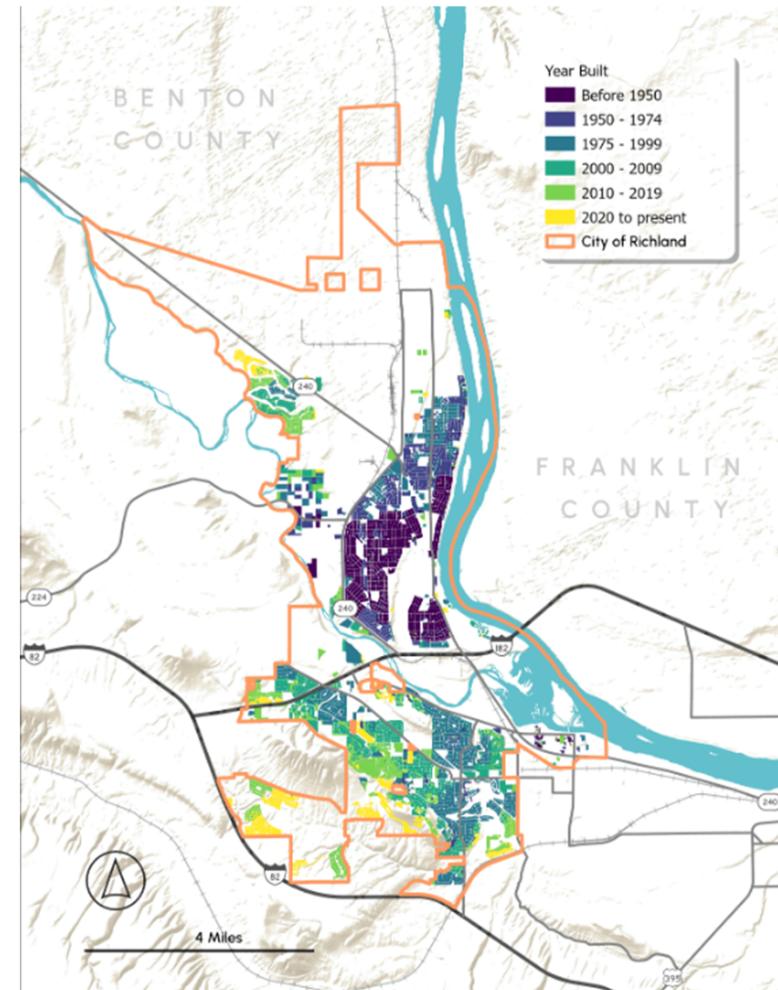
- Recent development: new apartments near city & neighborhood centers (services, jobs, amenities)
- Housing diversity increasing: 8.5% homes built since 2000 are condos (double share)
- Multi-unit housing (2+ units) represents 1/3 of all housing units built from 2020-25 - >growing role for broader mix of homes



HOUSING ELEMENT: **KEY FINDINGS**

- 14% households include person with disability -> need for housing that is accessible, adaptable, and located near essential services.
- **Housing needs extend beyond affordability:** Significant portion of housing stock is older (35% 50+ years old) -> ongoing maintenance & rehabilitation (expand program).

As the number of seniors & residents with disabilities increases, housing preservation, rehabilitation, and accessibility programs will play a critical role in supporting residents who wish to age in place safely and independently.



HOUSING ELEMENT: KEY FINDINGS

- 1/3 of renters and 15% of homeowners are cost burdened
- Housing costs and rents have increased faster than household incomes
- Renters are particularly vulnerable to rising housing costs and homeowners may face affordability pressures from increasing home prices, property taxes, insurance costs, utilities, and home maintenance expenses
- Affordability challenges can be especially significant for seniors, people with disabilities, and households living on fixed or slowly growing incomes

Preserving and expanding housing affordability will be critical to supporting economic opportunity, reducing displacement risk, helping residents age in place, and enabling people to remain in their communities and neighborhoods

HOUSING ELEMENT: **KEY FINDINGS**

- Expanding market-rate housing supply (i.e., smaller lower-cost housing) help increase overall housing availability and moderate housing costs over time.
- Market-rate housing alone unlikely to meet full spectrum of housing needs -> address needs of lower- moderate income households requires targeted policies, programs, partnerships, & support.

A combination of housing production, affordability strategies, and supportive housing initiatives will be necessary to meet diverse housing needs of current and future residents



HOUSING ELEMENT: HOUSING TARGET

Provide affordable housing for current and future residents is a key priority

- Must accommodate households earning under 50% of area median income, people experiencing homelessness, individuals with disabilities, and others with specialized housing needs.
- Additional investments in homelessness prevention, housing stability, and short-term rehousing programs needed.



HOUSING ELEMENT: NEW TOPICS



HOUSING
TARGETS



HOUSING GROWTH



HOUSEHOLD INCOME
AND COST BURDEN



HOUSING STOCK
CHARACTERISTICS

HOUSING ELEMENT: Goals and Policies

Goal HE.1 Provide a range of housing densities, sizes, and types for all income and age groups of the Richland community, in support of housing targets.

Revised to reflect new state-law requirements & support City's housing targets.

New and revised policies include:

- Support for middle housing and accessory dwelling units
- Stronger focus on infill and redevelopment near existing infrastructure & Central Business District
- Preservation of manufactured housing and protection of its residents
- Expanded accessible and senior "aging in place" options
- Broader mix of housing types for smaller and lower-income households

HOUSING ELEMENT: Goals and Policies

Goal HE.2 Improve and preserve affordable housing opportunities for lower-income individuals, households, and first- time homebuyers.

Revised to reflect a range of strategies and tools for developing, improving, and preserving affordable housing opportunities:

- Evaluating Multifamily Tax Exemption (MFTE) program
- Creating a regional housing committee
- Consider potential use of public property for development

Additionally, policies reflect state requirements for mitigating displacement risk and racially disparate impacts

HOUSING ELEMENT: Goals and Policies

Goal HE.3 Implement the current version of the Tri-Cities Consolidated Plan.

Policies were revised to reflect the current Tri-Cities Consolidated Plan.



HOUSING ELEMENT: Goals and Policies

Goal HE.4 Encourage the maintenance and preservation of existing housing stock and support maintenance and improvements in existing residential neighborhoods.

Policies revised to reflect a stronger focus on reinvestment in older neighborhoods and the preservation of existing housing. Consider Tax Increment Financing tools to help provide streetscape improvements.



HOUSING ELEMENT: Goals and Policies

Goal HE.5 Improve public facilities and transportation infrastructure to support housing needs and improved quality of life.

Revised to:

- Support place-making
- Identify priority areas for infrastructure investments to catalyze housing development around amenities
- Examine opportunities to reduce overly challenging parking requirements



Feedback? Questions?



PLANNING COMMISSION AGENDA ITEM STAFF REPORT

Meeting Date: 8/26/2026

Agenda Category: Communications

Prepared By: Jennifer Ballard, Senior Planner

Subject

Washington State Department of Commerce Short Course on Local Planning

Strategic Priority

Strategic Priority I - High Performance Government

Recommended Motion

None.

Summary

The three hour Short Course on Local Planning provides basic information on planning in Washington at no cost to course participants and includes:

- An overview of the complex mix of land use planning laws that work together to support land-use decision-making in Washington state.
- An introduction to comprehensive planning and plan implementation under the Growth Management Act.
- A review of the roles in planning and best practices for public participation.
- Mandatory training on the Open Public Meetings Act and Public Records Act for local government officials.

The next online courses:

Tuesday, September 22, 2026, 6-9 p.m.

Register at <https://www.commerce.wa.gov/growth-management/education-outreach/short-course/>

Attachments

1. Agenda Item Slide
2. Short Course Booklet
3. Public Records Act, MRSC v.2025.12
4. Open Public Meetings Act, MRSC v.2024.07

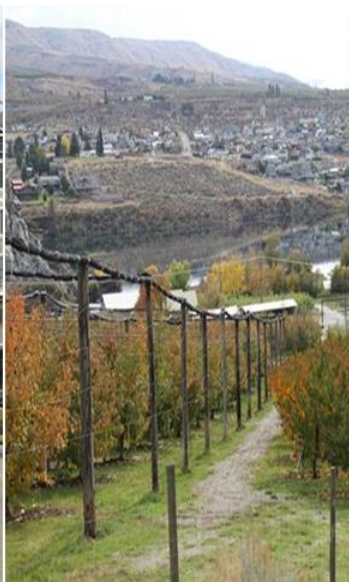


Commerce Short Course

Recommended for Boards such as Planning Commissions:

- Comprehensive planning and plan implementation under the Growth Management Act.
- Training on the Open Public Meetings Act and Public Records Act for local government officials.

**The next online course:
September 22, 2026, 6-9 p.m.**



A Short Course on Local Planning

The Short Course on Local Planning, always free and open to all, has been presented in Washington communities since 1977.

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If you are a planning commissioner, this course was created especially for you. It is also a source of basic information for staff, elected officials and the general public about land use planning processes in Washington State.

Agency contact

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**GROWTH MANAGEMENT
 SERVICES**

Why plan?

Land areas have been planned by people across the world for thousands of years. This work included concepts for the placement of buildings, transportation access, infrastructure, public spaces and much more. In the early 1900s, many communities in the U.S. began more formally planning for their local needs. The importance of comprehensive planning became more evident as communities grew and concerns rose about environmental protection, economic vitality, infrastructure, public health and safety, housing, and natural resource conservation.

For example, between 1990 and 2024, our state's population grew from **4.1 million** people to **8.0 million** people. It is projected to grow to **9.8 million** people by 2050.¹

Adding more people, along with other factors, can change our communities. By anticipating that change through comprehensive planning, communities can plan for development and manage the way they grow.

Your community's comprehensive plan starts with a vision of a preferred future, which looks ahead at least 20 years. This vision and the plan's goals and policies guide local actions to help your community achieve its desired future. Your plan helps you to:

- Protect and enhance the good things about your community, such as neighborhoods, parks, or open spaces.
- Identify community needs and how to meet them.
- Save money by identifying priorities for public spending and be prepared to find and use external sources of funding.
- Identify and develop achievable strategies for your community's needs, such as affordable housing or more jobs. While local governments by themselves don't create housing or jobs, they can set the stage through planning.
- Build a stronger sense of community, grow your local economy, and coordinate with other agencies in the region.
- Be better prepared to meet the needs of the future.

Each one of us has a stake in our community's future. We all want to live in great places, but they don't happen by accident. They happen because people care about their communities and take the time to ask what's good here, what's missing, what could be better, and how we will plan for growth that will likely come. Comprehensive planning is a process for people to work together to make great communities.

¹ www.ofm.wa.gov

Washington's framework for land use planning

Long before the Growth Management Act was adopted, a variety of constitutional provisions and state laws enabled local planning.

The constitutional basis for planning

The constitutionality of local governments regulating land use was tested and upheld in a 1926 U.S. Supreme Court decision. In **Village of Euclid v. Ambler Realty**, the court found that government has a legitimate interest in regulating where certain land uses should occur, in what form, and under what process. The court allowed the Village of Euclid to designate specific areas of land for specific uses. This authority is now known as "zoning."

The Washington State Constitution (Art. 11, Sec. 11) recognizes that state and local governments have authority to make police, sanitary and other regulations so long as they support public health, safety, morals or general welfare and don't conflict with general laws.

Planning at the subdivision level

While some early communities were master planned, many grew organically, or were "planned" at the subdivision level through application of Washington's subdivision statute. This law requires that before subdivisions are approved, appropriate provisions are made for:

"The public health, safety, and general welfare, and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school". RCW 58.17.110

Every city and county must have local codes that implement this law and must approve subdivisions consistent with this law.

Early planning statutes created tools to allow land use planning.

Washington State adopted laws before 1970 to allow land use planning at the local level. Local governments use one of these laws to authorize local planning.

Planning Commission Act (RCW 35.63) allows comprehensive planning by a city or county through a planning commission or planning agency. This was extended to all code cities by RCW 35A.63.

Planning Enabling Act (RCW 36.70) is directed at counties and requires a more detailed comprehensive plan.

Major land use laws

Washington State has three major statutes that overlay the basic planning laws. They provide processes for the planning and management of land and development. These are encoded as the Revised Code of Washington (RCW). Agencies can also develop guidelines to implement state law, adopted as Washington Administrative Codes (WAC).

The State Environmental Policy Act

(SEPA) is modeled on the National Environmental Policy Act (NEPA) and requires a review of the impacts that a plan, regulation, or development project may have upon the natural and built environment to give decision makers full information about the potential consequences of their decision. SEPA applies to every comprehensive plan amendment, most amendments of municipal land use regulations, and many types of development projects. Every proposal or project subject to SEPA must document anticipated environmental impacts. This is done by using environmental checklists, threshold determinations and specific, scientific analyses. For large or complex projects, an "environmental impact statement" is often required (RCW 43.21, WAC 197-11, and on-line SEPA Handbook, Department of Ecology).

The Shoreline Management Act (SMA)

arose out of a citizen initiative and is intended to protect the ecological functions of **shorelines of the state**, plan for water-dependent uses, and for public access. Shorelines of the state include marine shorelines, rivers, large lakes, and associated wetlands and flood zones. The SMA requires local governments with these shorelines to adopt a Shoreline Master Program (SMP), which identifies regulated shorelines and shore lands within their jurisdiction, permitted uses, and policies guiding those uses. The Department of Ecology must

approve all SMPs and ensure that they are consistent with state policies and guidelines. (Chapter 90.58 RCW, 1971, and WAC 173-26, Part III)

www.ecy.wa.gov/programs/sea/shorelines/smp

The Growth Management Act (GMA)

requires certain populous and fast-growing counties and the cities within them to adopt comprehensive plans containing specific information and analysis, with twin goals of focusing urban growth and protecting rural and resource lands from sprawl. The GMA requires coordinated regional and local planning and spells out the elements that must be included in comprehensive plans. All development in counties and cities that fully plan under the GMA must be regulated by rules that are consistent with and implement the comprehensive plan. (Chapter 36.70A RCW, 1990, and WAC 365-196

www.commerce.wa.gov/serving-communities/growth-management/)

Some Federal laws that influence local land use planning

Federal lands, including Federal Indian Reservations, military reservations, national parks, forests, monuments and wildlife refuges make up 51 percent of Washington's land area.

Tribal interests may intersect with local land use planning. There are 29 federally recognized tribal governments within Washington, and 25 Indian reservations, comprising more than eight percent of Washington's land base. Tribes are recognized as distinct, independent, political communities, wholly responsible for planning and permitting on reservation lands. Tribes also participate in "government to government" consultation on a variety of issues like transportation, land use, gaming, hunting and fishing. As of 2022, SHB 1717 requires counties to engage in land use planning with federally recognized tribes that have a reservation or ceded lands within the county. (Governor's Office of Indian Affairs, goia.wa.gov)

As authorized by the **Clean Water Act**, the **National Pollutant Discharge Elimination System (NPDES)** Permit Program controls water pollution by regulating pollutant discharge from point sources such as pipes or manmade ditches into waters of the United States. The Washington State Department of Ecology's Water Quality Program is delegated responsibility by the U.S. Environmental Protection Agency (EPA) for implementing all federal and state water pollution

control laws and regulations. A wastewater discharge permit is required for disposal of waste material into "waters of the state," which include rivers, lakes, streams, and all underground waters and aquifers. Permits stipulate specific limits and conditions of allowable discharge and may require certain activities.

www.ecy.wa.gov/programs/wq/wqhome.html

The **Endangered Species Act (ESA)** was passed by congress in 1973 to protect and recover imperiled species and the ecosystems upon which they depend. Under the ESA, species may be listed as either endangered (in danger of extinction throughout all or a significant portion of its range) or threatened (likely to become endangered within the foreseeable future). The Act is administered by the U.S. Fish and Wildlife Service (terrestrial and freshwater organisms) and the U.S. Department of Commerce National Marine Fisheries Service (marine wildlife such as whales and anadromous fish such as salmon). The law's ultimate goal is to "recover" species, so they no longer need protection under the ESA. Cities and counties play a role in designating fish and wildlife habitat conservation areas and reviewing development proposals to consider threatened or endangered species.

www.fws.gov/endangered/laws-policies/ and www.nmfs.noaa.gov/pr/laws/esa/.

There are many other state and federal laws that impact aspects of local planning, and thousands of state and federal court decisions interpreting and applying statutory planning rules.

Constitutional issues in land use planning

Community planning must balance many issues while creating a plan for managing growth. Constitutional rights and responsibilities must be respected. If you find yourselves with questions in these areas, ask your city or county legal counsel.

Due process

Procedural due process means that before government makes changes that significantly affect individual or property rights, citizens receive notice that a change is being considered, and they have the opportunity to comment. Procedural due process is most important as a part of permitting actions, it also applies to meetings. If an action would change the property rights of a property owner, legal notice and an opportunity to be heard are required. Failure to give proper notice of a meeting could invalidate any action taken at the meeting.

Substantive due process means the right to be subject to rules that are reasonable in aim and scope and that are appropriate for local government regulation. This means that any regulation should answer the following questions:

- **Is the regulation for a legitimate public purpose** such as protecting public health, public safety or water quality? Does it address issues that are the domain of local government?
- **Is the regulation appropriate to accomplish the purpose?** For example, if the goal is to protect water quality, is a requirement to build a house 75 or 100 feet away from a wetland an appropriate way to meet the goal?
- **Is the regulation reasonable?** Continuing the example, is the size of the setback appropriate to protect water quality, and based on the characteristics of the lot, can the property owner reasonably use their land? In cases where regulations may appear to conflict with the constitution, regulations should include an "out" (variance) for situations where otherwise constitutional regulations apply to a specific applicant in an unconstitutional way.
- **Is the regulation clear and easy to apply?** A proposed regulation must be clearly understood and fairly applied. Design guidelines can be particularly troublesome if they use subjective standards and

words such as "harmonious," or "in good relationship with the surroundings," which are difficult to enforce. Using pictures of acceptable building forms or window treatments can help to provide more clarity. A vague regulation can be invalidated if appealed to court.

Takings

Both the U.S. Constitution (5th Amendment), and the Washington Constitution (Art. I, § 16) state that no private property shall be taken (or damaged) for public or private use without just compensation having been made first. Where local governments have authority over the use of private property, they must be sensitive to the constitutional limits on their authority. Takings claims arise in three circumstances:

- **Physical occupation or damage:** Property has been physically invaded or appropriated through condemnation or an occupation that has a significant impact on the value of the property. Examples may include occupation for a storm water facility or a trail connection. This normally requires compensation, unless it can be shown as a need directly related to the particular project.
- **Regulatory takings:** Land use regulations may deprive an owner of reasonable use of his or her property, such as the right to buy and sell property, or the right to exclude others. Courts generally uphold regulations that protect public health and safety, or environmental concerns, even when these regulations substantially reduce property value. Zoning or other changes to a general regulation, which decrease or change the development potential of a property to meet the needs of the larger community is not considered a taking. However, if a regulation deprives the owner of "all economically viable use of a property" or "investor-backed expectations" (even if temporarily) the owner may be entitled to just compensation. For this reason, regulations should generally have some exceptions to allow reasonable use of property.
 - **Exactions as a condition of development:** In order to impose conditions on land development, a local government must do the following:
 - Show a nexus or identify a problem the condition is designed to address. Nexus

means that the condition imposed must relate to and help solve the problem created by the development. For example, if ocean views are protected by the comprehensive plan or regulations, and a proposed office building would cut off that view, the mitigation condition must address the loss of view. Thus, a condition requiring a bigger side yard setback would have nexus because it allows more view, whereas a condition to build frontage improvements would not.

- Show that the proposed development will create or contribute to the problem.
- Show that the condition will solve or alleviate the problem.
- Show that the proposed condition is “roughly proportional” to the problem created or contributed by the proposed development. For example, if a subdivision would add thirty new daily car trips to the adjoining street, a mitigation condition cannot require the developer to build a five-lane freeway.

To avoid takings claims, pay attention to these warning signals

- Does the regulation or action result in a permanent or temporary physical occupation of property?
- Does the regulation or action deprive the owner of all economically viable uses of the property?
- Does the regulation or action deny or substantially diminish a fundamental attribute of property ownership?
- Does the regulatory action have a severe impact on the landowner’s economic interest?

Other constitutional protections

The constitution allows some rights and freedoms that may be in friction with a community desire to regulate activities.

The Equal Protection Clause (EP) is part of the 14th amendment to the US constitution. The 1868 clause provides that no state shall deny to any person equal protection of the laws. In the planning context, this typically arises in enforcement actions. In this case, cities and counties cannot be selective in choosing against whom or when to enforce regulations.

Religious freedoms allow individuals to practice their religion. Local government laws may be applied to

religious institutions. For example, synagogues, temples, or churches may be required to comply with parking and building codes, or hours of operation; however, the regulation must not interfere with the right to practice religion.

Freedom of expression allows individuals to express themselves in their own way. Regulations may address aspects of expressive media such as signs or adult entertainment establishments but must not interfere with the right to freedom of expression.

“64.40 Damages” for permit processing allows property owners who filed an application for a permit to file an “action for damages” to obtain relief from acts of an agency which are arbitrary, capricious, unlawful, or exceed lawful authority, or knowingly cause unlawful delay. (RCW 64.40)

Vesting

Washington state’s vesting rules generally entitle a property owner to use property according to the rules and regulations in place at the time a complete application for a building permit or a subdivision is submitted. Vesting rules enable developers with the right to proceed with their project even if, before the application is finally decided, the regulations affecting the project change.

Moratoria

A moratorium is a swift government pause on accepting applications for certain development types until a particular issue has been studied and addressed. Cities and counties can authorize a moratorium on accepting development applications for six months at a time; or up to one year if a work plan is developed for related studies. Examples include a proposed change in zoning or when a community faces a utility-related shortage. A moratorium cannot be used as a long-term land use tool. (RCW 35.63.200, RCW 35A.63.220, RCW 36.70A.390)

For Further Study

A Short Course on Local Planning Resource Guide, Chapter 4 Constitutional Rights and Responsibilities in Planning

Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property Bob Ferguson, Attorney General (2018) www.atg.wa.gov/avoiding-unconstitutional-takings-private-property
<https://mrsc.org/Home/Explore-Topics/Legal/Planning/Regulatory-Takings.aspx>

Comprehensive planning under the Growth Management Act

The Growth Management Act (GMA) was adopted in 1990 as a response to concerns about unprecedented and largely uncontrolled growth in the 1970s and 80s, and the risks that uncontrolled growth posed to our environment and quality of life.

The GMA has 15 goals

These goals guide preparation of comprehensive plans.

- Encourage compact urban growth
- Reduce sprawl
- Encourage efficient multimodal transportation
- Plan for and accommodate housing for all economic segments
- Encourage economic development
- Protect property rights
- Timely and fair permit processes to ensure predictability
- Maintain and enhance natural resource industries
- Retain open space, enhance recreation
- Protect and enhance the environment
- Encourage citizen participation
- Ensure availability of public facilities and services
- Identify and encourage historic preservation
- Ensure comprehensive plans adapt to and mitigate effects of a changing climate
- Manage shoreline development (Per SMA set forth in RCW 90.58.020)

The GMA has some basic requirements:

All counties must designate and conserve resource lands of long-term commercial significance.

“Designate” means identifying resource lands not characterized by urban growth and conserving them to protect forestry, agricultural and mineral extraction industries over the long term. Agricultural soils are carefully assessed for long-term commercial significance. (RCW 36.70A.170)

All counties and cities must designate and protect environmentally critical areas. These include wetlands, fish and wildlife habitat conservation areas, critical aquifer recharge areas, frequently flooded areas and geologically hazardous areas. Local governments must use the best available science and adopt regulations to protect functions and values of critical areas. (RCW 36.70A.172, WAC 365-195-900 to 925)

Faster growing counties must do more. In addition to the basic requirements above, faster growing counties, and the cities within them, must “fully plan” under the GMA, meaning they must agree on countywide planning policies, identify urban growth areas, and develop detailed comprehensive plans.

Fully and partially planning map



Countywide planning policies (CPPs) shape regional policy

Developed by a county and all the cities within the county, countywide planning policies help to ensure that plans within a county are consistent with one another and that they work together to manage growth. CPPs may include:

- A mechanism for the county to designate urban growth areas. Some counties have chosen to assign future annexation areas to adjacent cities.
- A means to allocate population and housing targets to each city for incorporation into each city's comprehensive plan. Some counties have chosen to also allocate employment targets.
- Policies that address siting of public facilities of a countywide or statewide nature such as wastewater treatment facilities, highways, prisons or airports.
- Policies to address the need for housing affordable to all income segments.
- Other regional issues such as economic development.

In the Puget Sound Region, Snohomish, King, Kitsap, and Pierce counties are required to develop multi-county planning policies to guide development in a coordinated way. These multi-county planning policies are published in Vision 2050, providing region-wide policies for guiding private development, public policies, regulations, and investments.

Comprehensive plan elements

The GMA (RCW 36.70A.070) and WAC 365-196 provide specific direction on the elements that must be included in a comprehensive plan and the contents of those elements. In general, each element must include an inventory of existing conditions, future needs, and policies to guide implementation.

- **The Land Use Element** includes a land use map showing where and at what density future growth will be accommodated. It must include policies for protection of the quality and quantity of groundwater, storm water run-off, and guidance for corrective actions to mitigate pollution of waters of the state, including Puget Sound, and consider strategies for physical activity.
- **The Housing Element** must inventory existing housing supply and describe how the community is planning for current and future needs of all income bands, including assumptions about the types of housing that could accommodate people in each income band. The element is also to look at the impacts of past racial discrimination and exclusion in housing and include policies to address future displacement.
- **The Transportation Element** must inventory existing transportation networks and identify needed improvements, including those that will arise with future growth. This element must address transit, if applicable, and include a bicycle and pedestrian component.
- **The Capital Facilities Element** must include an inventory of capital infrastructure such as parks or water and wastewater systems to understand current needs and future demands with growth. This element requires detailed financing information for the plan's immediate six-year time period along with cost estimates for providing capital facilities over the remaining life of the plan (typically 20 years). If a local government cannot pay for identified facilities, then it must re-evaluate and adjust the plan until the needs and the ability to pay are in balance.
- **The Utilities Element** must consider the infrastructure needed to provide electricity, natural

gas, and telecommunications, whether provided by the local jurisdiction or by other providers.

- A fully planning county must adopt a **Rural Element**, which defines rural land use patterns and policies to protect rural character. Counties may have designated pre-1990 development in limited areas of more intense rural development (LAMIRDs), in which higher levels of development may occur.

Optional elements

A jurisdiction may include other optional elements in the plan to meet unique local needs or preferences, such as a historic preservation, social services, or climate change element. RCW 36.70A.070 also includes an economic development element, and a parks and recreation element, but these are considered optional because funding was not provided to develop the elements when these elements were added to statute. Some counties with larger ports must also develop a port element (RCW 36.70A.085).

The comprehensive plan must be internally consistent.

Each plan element is based on the same future land use plan map and population projection. The plan must be consistent with the countywide planning policies and must also be coordinated with plans of adjacent cities and counties. Each jurisdiction's development regulations, planning activities and capital budget decisions must be consistent with and implement the plan.

State laws change

The Growth Management Act is often amended. Be sure to review the statute and latest guidance from Commerce on the planning requirements.

www.commerce.wa.gov/about-us/rulemaking/gma-laws-rules/

Implementing your plan

The GMA requires local government actions to not simply be “consistent” with the plan but to implement it. There are three main ways to implement a comprehensive plan: regulations, spending priorities and other tools.

Your jurisdiction has broad flexibility and choices in developing and implementing your comprehensive plan. It is up to you to determine the regulations, spending priorities and other tools that are the right fit and apply them carefully to help your community grow towards the vision.

Zoning and other development regulations shape the community

Development regulations are adopted into municipal codes. They are the rules for what kinds of development are allowed, what it will look like, and how development applications will be processed. These regulations provide predictability regarding future development. Local codes typically include the following components:

- Zoning codes implement the land use map, and provide standards on building height and setbacks, and lot coverage.
- A subdivision code sets out the requirements and procedures for processing subdivision applications. Street and utility standards specify the construction details of streets and other public facilities.
- Critical areas regulations guide development away from places that are inappropriate for development. They protect people and property from hazards such as flooding and geological hazards, and protect environmentally sensitive areas such as coastal areas, wetlands or wildlife habitat from the impacts of development.
- Concurrency programs ensure that public facilities such as roads, water and sewer are provided to serve development.
- Other regulations may implement specific comprehensive plan goals such as design guidelines, landscaping requirements or tree protection.

Capital facility elements set priorities for infrastructure investments

Within the needs set out in a capital facilities element, a jurisdiction may choose to invest in a certain area to address a social issue or encourage certain types of development. It also can choose to make specific types of infrastructure investments such as transportation or park facilities to implement the community vision. In making decisions about infrastructure investments, attention should be paid to equity and displacement impacts.

Other methods to implement goals

Cities and counties can choose to use a variety of other tools to achieve local goals.

- Inter-local agreements between counties and cities may authorize sharing of local authority to permit development or to share revenue in potential annexation areas.
- A detailed land use plan called a “planned action” for a specific sub-area such as a downtown or redevelopment area can offer greater predictability for both the developer and local jurisdiction and encourage the types of development envisioned in the plan by doing upfront environmental analysis to reduce risks.
- A transfer of development rights (TDR) program can be used to obtain the potential to develop in sensitive environmental lands or important resource lands and transfer that development potential into an urban area.
- Multi-family tax exemptions can encourage development of multifamily residential units and/or affordable units in targeted areas.
- Impact fees can help to pay for the added impacts of growth to the transportation, parks, or schools’ systems, or the fire department.

For Further Study

For specific topics, visit www.mrsc.org

Updating your comprehensive plan & regulations

The comprehensive plan is intended to be a long-range document that guides decisions over the long term. The plan can be updated only once a year so that changes are considered concurrently.

Plans need updating, to stay current
Every ten years, the Growth Management Act requires every local government to take a fresh look 20 years into the future and make appropriate updates to the comprehensive plan and development regulations.

Why update your plan and regulations?
The periodic update will help you to do the following:

- Respond to shifts in demographics, changes in state law, or new countywide planning policies
- Evaluate progress toward accomplishment of short-term goals in the existing plan
- Review long-term financial projections and agree on priorities to renew or expand infrastructure
- Plan for potential or newly annexed areas

Big picture, longer term issues

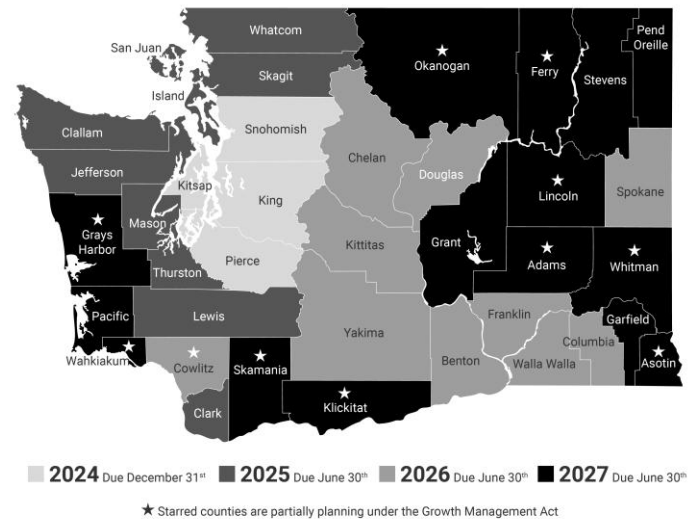
In addition to updating the required components of your comprehensive plan, your community may want to consider new or emerging issues.

- Changing demographics, like immigration and aging
- New forms of development and changing lifestyle preferences
- Impacts of climate change, such as sea-level rise, drought, or severe storms
- Rapidly changing technologies, such as on-line shopping and electric vehicles
- Local food production, physical activity, and sustainability concerns, such as local power production.

Update Schedule

The GMA includes a schedule which requires all counties and cities to update their comprehensive plan and regulations by rolling due dates of 2024 through 2028, and every ten years thereafter.

Periodic update map



Example steps to update your plan

- Let your community know the plan is being updated, and when and how they should participate.
- Review what exists now within your community and look ahead to what will be needed in 20 years.
- Develop a list of items to be updated in the plan. Work through the comprehensive plan amendments and ensure there are lots of opportunities for the community to participate in the process.
- Provide notice to the state 60 days before you intend to adopt so the plan can be reviewed for consistency with the GMA, and with state and regional plans. Unlike other states, Washington State does not approve local plans; they are presumed valid upon adoption.
- Update regulations to address changes in state law or to implement comprehensive plan policies.
- Adopt your comprehensive plan and regulation update before the statutory deadline; clearly state in the adopting ordinance that the periodic update is complete.

For Further Study:

www.commerce.wa.gov/serving-communities/growth-management/periodic-update/-update/

Roles in planning process

Many groups and agencies contribute to the process of land use planning and the development of the community. This collective experience and knowledge will help your community make wise and time-tested decisions that represent the broad public interest.

Elected officials are the legislative body of a city or county. They review policy recommendations from planning commissions regarding plans and development regulations, but only they have the authority to adopt plans and regulations. Elected officials also make decisions about how to fund capital facilities, and where to focus staff effort.

Planning commissioners are appointed by the elected body to represent broad interests of the community. They serve as a sounding board for new ideas, promote community interest in planning, and provide leadership in public participation programs. Planning commissioners make recommendations to elected officials.

Staff or consultants manage the planning process.

- Research and present information in staff reports, prepare draft plans, policies, and ordinances.
- Handle required public notice of meetings, actions, and keep the record of the process.
- Process administrative permitting applications and enforce adopted codes.

Most local governments hire **Hearings Examiners** to hear quasi-judicial development proposals and appeals of administrative land use decisions.

Other advisory groups such as a Parks Board, Diversity, Equity and Inclusion Commission, or Utility Commission, may be appointed to provide broad perspective on plans and regulations. Regional agencies and special districts such as school, sewer or water districts should participate in local planning to coordinate on land use and capital facility planning issues.

The Public includes a diverse collection of individuals, or groups such as the Chamber of Commerce, environmental groups, private utilities, or neighborhood groups.

Growth Management Hearings Board

Although the GMA permits direct review by the courts, the Legislature established the Growth Management Hearings Board and authorized that this Board will “hear and determine” allegations that a city, county, or state agency has not complied with the goals and requirements of the GMA, and related provisions of the Shoreline Management Act (SMA) RCW 90.58, and the State Environmental Policy Act (SEPA) (RCW 43.21C). In order to recognize regional differences, the Legislature created three Growth Management regions with Board members appointed from Central Puget Sound, Eastern and Western Washington. (RCW 36.70A.250-302) www.gmhb.wa.gov/default.aspx

The Board provides a less costly and expedited review of county and city comprehensive plans and development regulations. Appeals to the Hearings Board must be made within 60 days of the adoption of a plan or regulation. The Board’s decisions must be made 180 days after a petition is filed with the Board. If a city or county is found out of compliance with the Growth Management Act, they may not be eligible for certain state grants and loans.

Tribal engagement

Codified in 2022, SHB 1717 added the following requirements to comprehensive planning.

- Tribes may voluntarily participate in local government comprehensive planning (RCW 36.70A.040).
- Cities with a port element must collaborate development with the city, port and tribe(s) (RCW 36.70A.085).
- Commerce must share submittals with tribes on jurisdictions they have requested (RCW 36.70A.106).
- Local jurisdictions must work with tribes to coordinate urban growth through an opt-in process (RCW 36.70A.110).
- Commerce must provide mediation services for comprehensive planning process or development regulations disputes (RCW 36.70A.190).
- Counties must invite tribes to participate in the development of countywide planning policies, including protections for tribal cultural resources (RCW 36.70A.210).

Public participation

Public involvement is an essential foundation of planning. When the public is engaged in the planning process, community decisions better reflect the shared values of the community as a whole. A good process helps contentious issues be understood, discussed, and hopefully, resolved through the planning process.

Public involvement ideas

When there is no specific proposal, it may be difficult to get public input on general matters such as a legislative recommendation for change. Examples of outreach that may attract public participation include:

- Insert a flyer in utility bills or city newsletters
- Use traditional media such as placing legal or display ads, and developing relationships with the local radio or print media
- Hold public open houses, workshops, or meetings
- Visit Chamber of Commerce meetings, Kiwanis, Rotary, neighborhood groups of all income levels, or other community meetings or staff information booths at community events
- Use social media such as websites, Facebook, building e-mail lists obtained from your own lists, or from the Chamber of Commerce, home-owner associations, faith-based and civic organizations, or other groups, including members of the community that you might not otherwise hear from, that can help you understand how better to equitably allocate resources.

If a member of the public, remember:

- If you are new to or unfamiliar with planning processes, ask questions of staff or have staff attend your organization's meetings.
- Planning processes take time, and you are an important part of the process.
- Stay informed and find out the opportunities and timing for public input. If possible, attend meetings that relate to the subject you are interested in.
- Be concise and respectful when testifying. Signing a petition does not replace participating in other ways.
- Fundamental choices about how the community wishes to develop and codes that development must meet are made at the time of planning, not permitting.

Effective planning commissions

Well-run meetings can improve public participation and can help your community make wise decisions. Here are some tips and tools for effective meetings:

- Ensure a quorum will be present at meetings (a majority, more than half, of the voting members holding office).
- Adopt bylaws, establish procedures, and use ground rules to provide basic structure for your meetings. Make an annual work plan.
- Elect a chair, and help the chair run a productive, effective meeting. Robert's Rules of Order are helpful, but not essential.
- The chair should make everyone feel welcome, and should work from a timed agenda, beginning and ending the meeting on time.
- The chair should ensure everyone is heard, and no one dominates. Everyone should have an open mind and treat all parties with due respect. At a hearing, members should address applicants, citizens, and staff by last name. First names suggest familiarity.
- Members should read the meeting packet ahead of time and come prepared to participate fully in the meeting.
- The group should use staff resources well, by asking staff to research issues, invite guests, manage the process, and ensure regular communication between council and planning commission.
- Each member of a deliberative body brings his or her own perspective, experience, and opinions to the table — but remember that you are a part of a team.

Types of land use decisions

Clarity in the rules of planning processes helps to support strong local decisions. Understand the types of local government actions and the various roles in the planning processes.

Depending on whether your planning commission is recommending land use policies or deciding on specific development proposals, different rules can apply.

Legislative decisions make the rules. These include amendments to the comprehensive plan, development regulations, or area-wide zoning. Recommendations on these changes are made by the planning commission but are adopted by elected officials. Public process and citizen participation are required. Decisions may be appealed to the Growth Management Hearings Board within 60 days of publication of notice of the decision.

Administrative and quasi-judicial decisions apply the rules.

1. **Administration decisions:** Staff are authorized to permit or deny proposals based on how a proposal meets established zoning and development standards. Examples include building permits or short plats.
2. **Quasi-Judicial decisions:** A planning commission, hearing examiner or elected body acts in a judge-like capacity, weighing evidence and adopting findings and conclusions. In these cases, the ***Appearance of Fairness Doctrine*** applies, and all communications on the proposal must be disclosed. Examples of quasi-judicial actions are conditional use permits or major variances.

The **Local Project Review Act** (RCW 36.70B, adopted in 1995) revised the way permits are to be processed in Washington State. Strict time limits are imposed for processing permit applications. For any quasi-judicial action requiring a public hearing, only one public hearing is allowed. Appeal processes for administrative and quasi-judicial actions are established locally and generally have a strict time limit. Appeals may be taken to a different local decision body, such as a city council, a hearings examiner, or to Superior Court under the Land Use Petition Act (RCW 36.70C). Appeals to Superior Court must be filed within 21 days of the decision.

Typical steps in the legislative process

Amendments Proposed: Changes to policies, regulations, or land use may be proposed by officials or interested parties. The planning commission is generally required to review the proposed change and make a recommendation to elected officials.

Professional Review: Staff or consultants provide a staff report reviewing proposed changes against established criteria and may make recommendations based on their analysis. The staff report should include:

- A concise explanation of the proposal.
- A review of applicable criteria and comprehensive plan goals and policies, regulations, state law, and constitutional limitations.
- An analysis of the facts relevant to the decision.

Public Review: The public is invited to provide comments on the proposed amendments. As a planning commissioner, you should prepare to hear public comment.

- Educate yourself in the details of the items at issue so you can understand public concerns.
- When necessary, set time limits for speakers, or organize testimony, so everyone has a chance to participate.

When listening to testimony, it is important for you to listen and be mindful of the relevant criteria or considerations that affect the issue in front of you.

At a public hearing:

- Listen and be patient. Understand which groups are providing comment and who is not represented.
- Watch your body language, and don't take things personally.

Recommendations

Your recommendations must be based on the criteria affecting the decision, and not just on how many people argue for a certain choice. Elected officials ultimately make the final decision and rely on your rationale for the recommendation.

Your recommendations should reflect adopted plans and regulations, community values, consider professional advice, and should be the result of thoughtful deliberation.

The record should include:

- A staff report, including references to decision criteria and local policies you used to make the decision.
- Minutes or a verbatim record of any hearing and any exhibits offered during the hearing.
- Findings supporting the reasons for approval or disapproval of the proposal.

Steps for quasi-judicial processes

Your planning commission may be involved in quasi-judicial processes. A quasi-judicial process is different than a legislative process because:

- The proposal is site specific.
- Commission members must not discuss the project outside of the hearing and must disclose any prior information or ex-parte contact about the proposal under the Appearance of Fairness doctrine.
- State law requires review and decision within timelines identified within the local code.

Short form of procedures for quasi-judicial public hearings

1. Chair declares the public hearing is open.
2. Chair states that everyone present will be given an opportunity to be heard; however, state if testimony is to be subject to time limits and also if the commission or council does have a policy of closing meetings at a certain time (e.g. 10:00 p.m.). State that the hearing is being recorded and that prior to speaking, individuals should state their names and addresses.
3. Appearance of Fairness.
 - a. Chair requests anyone who objects to the Chairman's participation, or any other commission or council member's participation, to please state so.
 - b. Chair asks the commission or council members if any have interest in the property or issue. Chair asks commission or council members if they can hear and consider this matter in a fair and objective manner.
 - c. Chair requests member of the commission or council to place on record the substance of any

communication each has had outside of the hearing with opponents or proponents on the issue to be heard. After the communication is placed on the record, the Chair should request whether any interested parties wish to rebut the substance of the communication.

4. Chair requests staff to make their presentation.
5. Applicants invited to comment.
6. Chair invites comments from citizens in favor of the proposal.
7. Chair invites comments from citizen against the proposal.
8. Chair invites applicants to rebut the opposition.
9. Additional comments from those against and those for the proposal should be recognized, if needed.
10. Chair requests whether the commission or council members have questions of the applicant, citizen, or staff.
11. Chair declares the public hearing closed.
12. Commission or council deliberates on the record, discussing Findings of Fact and Conclusions.

Appearance of Fairness doctrine

When boards, commissions, or councils are required to hold hearings, they must not only be fair, but they must also be free from even the appearance of unfairness.

This doctrine applies only to quasi-judicial actions of local decision-making bodies. These are actions that determine the legal rights, duties, or privileges of specific parties in a hearing such as development permit applications, site-specific rezones, subdivisions, variances, special use permits, or conditional use permits. **This doctrine does not apply to legislative actions** such as comprehensive plan amendments, development regulation amendments or area-wide rezones.

The basic standard is that if a person has an interest of any kind in an issue or takes evidence improperly outside of a hearing, the proceeding can be invalidated. These issues can arise in the following instances:

- You have a business, social or familial connection to a matter in front of the board.
- Someone approaches you outside of a hearing with information supporting or opposing a pending matter. This is called ex-parte communication and is not allowed outside of hearings. Tell the person you could be disqualified from participating in the hearing and that they should present their comments through the public hearing process.

Appearance of fairness concerns can be avoided by the following procedures:

- Poll the commission or board members at the start of each hearing to see if anyone has information related to appearance of fairness.
- Ask the audience if anyone wishes to voice an objection to the participation of any board or commission member due to appearance of fairness considerations.
- If there are objections, the board or commission member is provided the opportunity to disqualify or refuse to disqualify themselves from participating. A board or commission member disqualifying themselves from participation shall leave the

hearing room while the application is being considered.

For Further Study

A Short Course on Local Planning Resource Guide, Ch. 2

The Appearance of Fairness Doctrine in Washington State www.mrsc.org/subjects/legal/aofpage.aspx

Knowing the Territory: Basic Legal Guidelines for Washington City, County and Special Purpose District Officials. MRSC, October 2013.

The Open Public Meetings Act (OPMA)

The process of land use decision-making should be transparent and open to the public. OPMA training is required for members of any governing body of a public agency, sub-agencies, such as planning commissions, library boards, or certain committees that act on behalf of the governing body.

A meeting is defined as any regular scheduled meeting or special meeting of a body such as a council or a planning commission in which a majority of the body is present and discusses the business of the body. OPMA applies to councils, commissions or boards when they hold hearings, take public comment, deliberate or discuss, review or evaluate, or make decisions. Boards and commissions subject to OPMA requirements cannot meet as a quorum to discuss board/commission business, when that gathering has not been noticed as a meeting open to the public.

The OPMA requires that:

- All meetings must be advertised as to the place, the time and the agenda. Extra, special or moved meetings require special notice.
- All meetings must be open to the public.
- All discussion about governmental business must take place within the context of the meeting. Group emails, or a series of small meetings adding up to a quorum may be considered meetings and are subject to the OPMA.

Exceptions exist for discussion of sensitive topics such as litigation, real estate or contracts, but decisions must be made in a public meeting. Failure to comply with the OPMA may result in **personal** fines, invalidated actions, delayed process, and loss of the public trust.

OPMA Tips

- One-way emails are okay for distribution of information; it is best if these are from staff.
- Do not “reply all” to emails. Discussion of the commission’s business may be considered a meeting, even if it is by email. For transparency, group discussion should generally be limited to a public meeting for which advance notice has been given.

For Further Study

www.mrsc.org/subjects/legal/opma.aspx

The Public Records Act (PRA)

Public records training is required for elected officials and local public records officials.

A public record is any state or local record relating to the conduct of government or the performance of a governmental function, and which is prepared, owned used or retained (POUR) by any city, county, or district. Public records may include letters, documents, maps, sound recordings, or emails. The public is entitled to access applicable public records. This also applies to any government business conducted on personal electronic devices.

PRA Tips

- It is best practice for planning commissioners or elected officials to use a separate e-mail address (not their personal email address) for agency-related email.
- A separate email address is ideally provided by the jurisdiction to assure that records can be properly retained.
- The rule of thumb is “If you don’t want to see it on the front page of the paper, don’t write it in an email”.

For Further Study

Public Records Act for Washington Cities, Counties and Special Purpose Districts

<https://mrsc.org/Home/Explore-Topics/Legal/Open-Government/Public-Records-Act.aspx>

Local government Records Retention Schedules

<https://www.sos.wa.gov/archives/>

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The Planning Association of Washington (PAW) is a grassroots educational organization serving the needs of planning commissioners and many other land use planning stakeholders. PAW created the short course in 1977. www.planningpaw.org

The Washington Chapter of the American Planning Association (APA-Washington) is a local chapter of the National APA, which certifies professional planners. APA-Washington greatly supported the development of this publication. www.washington-apa.org/

Commerce also partners with city and county risk pools, who have a strong interest in ensuring their members have the training they require to avoid risk.

The Washington Cities Insurance Authority
www.wciapool.org/

The Association of Washington Cities Risk Management Service Agency.
<https://wacities.org/services/risk-management-service-agency>.

The Municipal Research and Services Center (MRSC) is a private, non-profit organization based in Seattle, WA. MRSC is a valuable source of information for local governments. www.mrsc.org

Disclaimer: This document is intended to provide a brief overview of the topics included in the Short Course on Local Planning and is not intended as legal advice. If questions related to this material arise in your community, consult your city or county's legal counsel.

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Congratulations

You have completed the **Basic Short Course on Local Planning**. To learn more on these topics, read the **Short Course on Local Planning Resource Manual** and the other resources listed in each section of this booklet. When available, attend a short course in person where you can get more depth on these topics, ask questions of presenters, and experience an exchange of ideas.

Learn more about planning

With this foundation in the Short Course content and the basic structure for land use planning, you might want to learn more detail about specific planning topics. Attend Special Short Courses on special topics or planning conferences from our partner planning associations. Dive into the wealth of planning resources available on the Web. Thank you again for your engagement in local planning and investing your time in your community's future.



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Public Records Act

For Washington Cities, Counties,
and Special Purpose Districts



Public Records Act

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Revision History

MRSC does our best to update this publication every year to reflect any new legislation or other relevant information impacting city and town revenues. Below is a summary of significant recent changes. If you are aware of any other sections that you think need to be updated or clarified, please contact mrsc@mrsc.org. To make sure you have the most recent version, please go to mrsc.org/publications.

DATE	SUMMARY
December 2025	Entire document reviewed, re-written, and re-published in its entirety

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Introduction

BACKGROUND AND PURPOSE

In 1972, voters in Washington State approved Initiative 276, which required that all records maintained by public agencies be made available to the public upon request, with very narrow statutory exemptions. Now known as the Public Records Act (PRA), the state's public disclosure statutes have evolved over time. The current version of the law is codified at [chapter 42.56 RCW](#). The intent of the PRA is to facilitate open and transparent government. It accomplishes this by mandating that the people have broad and timely access to public records. The public policy behind the PRA is explicitly stated in [RCW 42.56.030](#):

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected. In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern.

The PRA's basic mandate is for public agencies to make records available on request for inspection or copying. This publication describes in detail what the statutory obligations are for public agencies and how agencies should respond to public records requests.

WHO MUST COMPLY WITH THE PRA?

The PRA applies to “every state office, department, division, bureau, board, commission, or other state agency” in Washington as well as “every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency” ([RCW 42.56.010\(1\)](#)). We use the term “agency” throughout this publication to mean local governments unless we specify that we are talking about state agencies.

Notably, the PRA does not apply to judicial records because the judiciary is not a “state or local agency” within the meaning of the PRA. See [City of Federal Way v. Koenig](#) (2009). Instead, public access to judicial records is governed by three court rules promulgated by the Washington Supreme Court – [GR 22](#), [GR 31](#), and [GR 31.1](#).

The corollary law for public access to federal public records is the Freedom of Information Act (FOIA). Sometimes requesters use “FOIA” and “PRA” interchangeably when referring to requests for public records. Technically, the PRA applies to Washington State public agencies and FOIA applies to federal agencies; however, a public agency should treat a request for records the same regardless of which term a requestor uses.

Questions may arise whether the records of non-governmental entities (such as nonprofit corporations or government contractors) are subject to disclosure under the PRA. The section on [Records Held by Private Entities](#) covers the relevant analysis in more detail.

WHAT RECORDS ARE SUBJECT TO THE PRA?

A public record is defined in [RCW 42.56.010](#)(3) as any writing that is prepared, owned, used, or retained by any state or local government agency that contains information related to government conduct or the performance of any governmental or proprietary function.

The courts interpret this language very broadly, finding that it encompasses “virtually any record related to the conduct of government.” See [O’Neill v. City of Shoreline](#) (2010).

More detail on how to determine whether something is a public record can be found under the chapter [What Is a Public Record?](#) in this publication.

INTERPRETING THE PRA

The Public Records Act ([chapter 42.56 RCW](#)) should not be read in isolation. There has been significant litigation surrounding the PRA, and decades of court decisions inform how agencies should be interpreting their obligations under the PRA. This publication includes citations to relevant case law and analysis where applicable. See also MRSC’s [Public Records Act Court Decisions](#) webpage. Likewise, agencies can refer to the Washington State Attorney General’s [Model Rules on Public Disclosure](#) ([chapter 44-14 WAC](#)) for guidance on how to evaluate and respond to specific types of requests.

In 2005, the state legislature directed the Attorney General to adopt advisory “Model Rules” for state and local agencies. While [chapter 42.56 RCW](#) provides the statutory framework for the disclosure of public records, the Model Rules provide practical, non-binding, advisory guidance on many issues that may not be clear in the language of the PRA itself.

Cities and counties should review the Model Rules and determine whether they wish to incorporate some or all of the Model Rules into their own local disclosure procedures or policies.

THE IMPORTANCE OF COMPLIANCE

Agency compliance with the PRA is important not only because it furthers the basic principle that the people’s government be open and transparent, but also because public agencies face the potential for significant financial liability if they improperly withhold records or otherwise fail to comply with the PRA.

Financial penalties can include fines, attorneys’ fees, staff time, and other costs associated with litigation ([RCW 42.56.550](#)(4)). See more in the [Judicial Review](#) section of this document.

HOW TO USE THIS PUBLICATION

The goal of this publication is to assist local agencies in meeting their obligations to the public under the PRA. Readers should use this publication in conjunction with MRSC’s [Public Records Act](#) online resources.

This publication provides general guidance and should not be construed as legal advice. Ultimately, agencies will need to consult with their attorneys regarding how to respond to specific records requests.

This publication will first provide an overview of the PRA, agencies’ procedural obligations, and helpful tips and insights on processing records requests. The second half of this publication reviews common exemptions. The appendices include other helpful resources.

What Is a Public Record?

Washington has one of the broadest and most inclusive definitions of “public record” in the country, which incorporates nearly every record that pertains to government. Not only is the statutory definition itself broad, but courts interpret that definition quite broadly as well. In *Nissen v. Pierce County* (2015), the court noted, “[t]his broad construction is deliberate and meant to give the public access to information about every aspect of state and local government.”

The State Attorney General’s Office has produced a helpful [flowchart](#) to assist when determining whether a record is a “Public Record” under the PRA.

DEFINITION OF A PUBLIC RECORD

A “public record” is defined in [RCW 42.56.010](#)(2) to include:

[...] 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 any state or local agency regardless of physical form or characteristics.

While this definition is broad, it is still necessary to meet all of the elements within the definition for a record to be considered a “public record.” One of those elements is whether something is considered a “writing.”

“Writing” is defined by the PRA in [RCW 42.56.010](#)(3) to include:

[...] handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

From this definition we see that pretty much any technology used to capture and express communication that pertains to the conduct of government will cause a record to meet the definition of a public record – regardless of where that record may be stored or retained.

Another element to consider is the subject matter of the record. If the record is in any way related to governmental activity, i.e., “relating to the conduct of government or the performance of any governmental or proprietary function,” it would fall within this element. This could include records regarding personnel, property management, agency correspondence, public outreach, regulatory activity, legislative activity, and more. However, if a record only discusses personal or other private business it will generally not meet this element of the definition.



Caution: It is possible for an entirely private or personal record to become a public record if the agency ends up using that record in the conduct of government, for example as part of a personnel action.

The final element of the definition is whether the record was “prepared, owned, used or retained” by that agency, as discussed below.

RECORDS ON AGENCY DEVICES AND ACCOUNTS

It is prudent to assume that all records created or stored on agency devices or accounts or created, stored or published on social media accounts by a public agency are public records as they are likely “prepared, owned, used, or retained” in the conduct of government. That said, the courts have made it clear that the controlling factor of determining whether a record is a public record is the *nature* of that record, not where the record was created or stored.

In [Tiberino v. Spokane County](#) (2000), the court held that personal emails created by an agency employee using their work email account would not have been public records *but for* the fact that the personal emails were subsequently used by the county in a disciplinary action against the employee. In a more recent case, the Washington Supreme Court emphasized that the mere creation and retention of union-related emails on agency devices and accounts did not cause them to automatically be public records. It was necessary, instead, to review the content of the emails to see if they discussed the conduct of government ([SEIU Local 925 v. UW](#) (2019)).

RECORDS ON PERSONAL DEVICES AND ACCOUNTS

An additional test applies when a record is located on a personal device or account. In addition to the other elements of the definition of a public record, it is necessary to look to consider whether the record was prepared or used within an agency employee or official’s “scope of employment” or official duties. To determine whether a record was created within the scope of employment and is thus a “public record,” a court will look at whether at least one of the following three things are true:

- The job required the creation of the record, e.g. text message, email, or social media post;
- The employer directed the creation of the record; and/or
- The creation of the record furthered the employer’s interests.

A series of cases have clarified that text messages on personal cell phones ([Nissen v. Pierce County](#) (2015)), emails in personal email accounts ([West v. Vermillion](#) (2016)), and social media posts on personal accounts ([West v. Puyallup](#) (2018)) may be subject to the PRA if the creation or receipt of the text message, email, social media post met any one of these three elements.



Practice Tip: Agencies should adopt employee and official policies around the use of personal devices and accounts for public business. See MRSC’s [Electronic Records Policy Tool Kit](#) for examples.

RECORDS HELD BY PRIVATE ENTITIES

Records created and/or held by a private business or other non-governmental entity may be subject to the PRA when the entity is determined to be the “functional equivalent” of a public agency ([Fortgang v. Woodland Park Zoo](#) (2017) or is otherwise acting at the direction of a public agency ([Cedar Grove Composting v. City of Marysville](#) (2015)). To determine whether an otherwise private entity is considered the functional equivalent of a government agency, courts will apply a four-factor balancing test from [Telford v. Thurston County Board of Commissioners](#) (1999).

The factors are:

- Whether the entity performs a governmental function;
- The level of government funding the entity receives;
- The extent of government involvement or regulation in the entity's activities; and
- Whether the entity was created by the government.

This is a very fact-specific analysis, and some courts will give greater weight to different facts, so it is important to work with an attorney if there is ever a concern of whether the PRA applies to a particular private entity.



Practice Tip: MRSC recommends that a contract between an agency and a private entity (e.g., a consultant, nonprofit, or business) explicitly define the public records obligations of the entity, if any, so there is clarity about what records may be subject to disclosure under the PRA. While private entities can be sued and forced to turn over public records in their possession, it helps ease the working relationships if expectations are laid out in advance.

Agency Obligations Under the PRA

In the interest of transparency and the people's ability to "maintain control over the instruments that they have created" ([chapter 42.56 RCW](#)), the Public Records Act (PRA) requires agencies to make their records available for public inspection with limited exemptions. To ensure compliance with this objective, the PRA places several procedural obligations upon agencies. These obligations are reviewed in more detail below.

ADOPT POLICIES AND PROCEDURES

Technically, the first statutory obligation placed on agencies listed in the PRA is the "Duty to Publish Procedures" ([RCW 42.56.040](#)). Local agencies must display and make available the policies and procedures on how and from whom the public may obtain information and copies of records. Of course, the agency must adopt those policies and procedures before they are published. Policies are generally adopted via ordinance or resolution by the legislative body of the agency. Example policies and procedures are available on [MRSC's Public Records Act Basics](#) webpage.

These published policies must also contain the specific rules of procedure agencies will follow as they meet PRA disclosure obligations. These rules should be designed to provide for "the fullest assistance" and "most timely possible action on requests" without causing "excessive interference with other essential functions of the agency" ([RCW 42.56.100](#)). It is in accordance with these published rules and procedures that agencies per [RCW 42.56.070\(1\)](#) then:

[...] make available for public inspection and copying all public records, unless the record falls within the specific exemptions of [the Public Records Act], or other statute which exempts or prohibits disclosure of specific information or records.

Many agencies adopt policies and procedures based on the Attorney General's Model Rules ([chapter 44-14 WAC](#)). Though the current version of the Model Rules deals mostly with disclosure procedures, there are also instructive comments regarding some specific disclosure exemptions, such as the right to privacy, the attorney-client privilege, and the deliberative process exemption. The Attorney General has the discretion to revise the Model Rules and periodically does so in response to court decisions and legislative changes.

The Washington Administrative Code (WAC) sections quoted below are taken from the "Introductory Comments" to the Model Rules and provide some explanation of their purpose and role.

[WAC 44-14-00001](#) – Statutory Authority and Purpose.

The overall goal of the model rules is to establish a culture of compliance among agencies and a culture of cooperation among requestors by standardizing best practices throughout the state. The attorney general encourages state and local agencies to adopt the model rules (but not necessarily the comments) by regulation or ordinance.

[WAC 44-14-00003](#) – Model Rules and Comments are Nonbinding.

The model rules, and the comments accompanying them, are advisory only and do not bind any agency. Accordingly, many of the comments to the model rules use the word "should" or "may" to describe what an agency or requestor is encouraged to do. The use of the words 'should' or 'may' are permissive, not mandatory, and are not intended to create any legal duty.

While the model rules and comments are nonbinding, they should be carefully considered by requestors and agencies. The model rules and comments were adopted after extensive statewide hearings and voluminous comments from a wide variety of interested parties.

Though these rules are nonbinding, the PRA directs agencies to “consult” the Model Rules when establishing their local ordinances ([RCW 42.56.570\(4\)](#)), and courts will cite to the Model Rules with the expectation that the processes explained within them were followed. See, e.g., [Forbes v. City of Gold Bar](#) (2012).

An agency’s adopted policies and procedures should also reflect actual circumstances that are unique to that agency. For examples of agency PRA policies and procedures, see MRSC’s [Public Records Act Basics](#) webpage.

IDENTIFY THE PUBLIC RECORDS OFFICER

Next, the PRA requires that agencies “appoint and publicly identify” a public records officer (PRO) ([RCW 42.56.580](#)). The officer serves as a public point of contact and oversees the agency’s compliance with the PRA. Often, this responsibility is assigned to the clerk, attorney, or other administrative professional and the designation appears within the adopted policies. Some larger jurisdictions are able to have a designated PRO whose sole responsibility is to oversee the agency’s records, but in most situations the PRO duties are only one of an employee’s many job duties.

Some jurisdictions may have more than one PRO. This is particularly true in counties because the separately constitutionally elected officials manage and oversee their own records. Therefore, they may designate their own PRO to process and respond to requests. However, some county elected officials opt to rely on the same PRO designated by the executive branch. The statute also allows agencies to appoint an employee or official of another agency as the designated PRO. This is particularly useful for smaller agencies that have limited staff and resources and could be accomplished through an interlocal agreement or a contract for services between the agencies.

The name and contact information of the agency’s current designated PRO is required to be made available in a reasonably calculated way to provide notice to the public about whom they may direct their records requests to. Examples of how agencies can make this information available are: posting at the local agency’s place of business, posting on the agency’s website, and/or including the information in agency publications and communications.

Note that while the statute requires agencies to identify their designated PRO for the purposes of records requests, the public are *not required* to direct inquiries to this person. This is discussed in more detail in [Receiving and Tracking a Records Request](#) section of this document.

LIST OF NON-PRA EXEMPTIONS

The PRA directs agencies to publish and maintain a list of “other” statutory exemptions or prohibitions on disclosure in addition to those contained within [Chapter 42.56 RCW](#) that the agency intends to rely upon ([RCW 42.56.070\(2\)](#)). These “other statutes” can include Washington laws, federal laws and regulations, and the state and federal constitutions. Many jurisdictions opt to incorporate the [list of RCWs annually updated](#) by the Office of the Code Revisor (available on the Attorney General’s website) into their adopted PRA policies.



Caution: MRSC previously maintained a list of other RCWs as an appendix to a prior version of this publication. Many jurisdictions adopted that appendix by reference in their own policies. However, to avoid duplication with the Code Revisor, MRSC no longer maintains that list of Washington statutes. Agencies should review their adopted policies to be sure they incorporate by reference the most up to date list from the Office of the Code Revisor. MRSC does still maintain a limited list of federal statutes and regulations that have been found to apply to Washington public records, which is attached as [Appendix C](#) to this publication.

Note that any listing of potential exemptions is for informational purposes only and the absence of such a list or the absence of a particular exemption on an adopted list does not prevent an agency from relying upon that exemption.

INDEX OF RECORDS

The PRA requires that local agencies maintain a current index of their records (including correspondence) created after January 1, 1973 ([RCW 42.56.070\(3\)](#)). This index must be made available to the public, even if it is only partially complete. There is no statutory guidance on what information an index should include, but arguably it should contain sufficient information to assist requestors in pointing to the exact records they seek such as keywords and subject matter of the record and where it is located.

But this is where the 50-year-old PRA begins to show its age. The last type of record listed in the statute, “correspondence,” is almost impossible to index in the current age of digital communication, plus other electronic records are constantly being updated and changed, like search histories and database records. Accordingly, the statute was amended to allow local agencies to make a formal finding that maintenance of such an index would be “unduly burdensome or interfere with agency operations” ([RCW 42.56.070\(4\)](#)).

Often, this finding appears in the agency’s adopted PRA policies and must include an explanation of why and to what extent compliance would be difficult. That said, if the agency does maintain an index, even if it only contains a subset of all of the agency’s records, it must still be made available to the public.

In summary, if maintaining even partial indices, an agency must comply with [RCW 42.56.070\(3\)](#). Note that while failure to publish or maintain indices without a finding that doing so would be unduly burdensome is technically a violation of the PRA, the PRA does not explicitly provide a means for someone to bring a court case against the agency on this basis alone.

AGENCY OFFICE HOURS FOR IN-PERSON INSPECTION

The PRA requires that records be made available for inspection during the “customary office hours” of the agency “for a minimum of thirty hours per week,” excluding holidays, unless the requestor and the agency agree otherwise ([RCW 42.56.090](#)). Compliance with this requirement may be difficult for smaller agencies that do not keep that many on-site in-person office hours. One option is to offer at least a 30-hour window during which the requestor can schedule an appointment to inspect records so staff can be available on-site, although the agency needs to be careful not to unduly limit the length of the appointment ([WAC 44-14-03002](#)). The customary business hours must be posted on the agency’s website and made available by other means to provide the public with notice, such as posted at a customer service desk or included on record request forms.

PROVIDE PROCESS FOR LOCAL REVIEW OF DENIALS

Local agencies are required to “establish mechanisms,” i.e. adopt a procedure, for the internal review of any decision that denies inspection of a record ([RCW 42.56.520\(4\)](#)). Note that an agency claiming that a record is subject to an exemption or prohibited from disclosure is considered a denial under the PRA. Per the statute, this is meant to be a very quick process, and any review is deemed completed at the end of the second business day following the denial. This review, if requested, is typically completed by the agency attorney. A requestor is not required to make use of the agency’s denial review process before going to court under [RCW 42.56.550](#). See *Kilduff v. San Juan County* (2019). However, having this process available to requestors may stave off court challenges and give agencies an opportunity to correct any inadvertent errors. This is discussed further in the section in this document titled [Internal Agency Review](#).

MANDATORY TRAINING

Two groups of local government representatives are required to receive PRA training: local elected officials and the agency’s designated PRO ([RCW 42.56.150](#) and [RCW 42.56.152](#) respectively).

Local elected officials and those appointed to fill vacancies in elected office must receive PRA training that also includes discussion of the official’s record retention obligations under [chapter 40.14 RCW](#). Officials are required to complete PRA training either before they assume office or within 90 days of assuming their duties. Officials must take refresher training at intervals of no more than four years.

PROs must receive PRA training that covers the topics of retention, production, and disclosure of electronic documents, including updating and improving technology information services. PROs are required to complete their PRA training within 90 days of assuming their duties and take refresher training at intervals of no more than four years.

While the PRA requires this training, it does not indicate how compliance with this obligation should be documented. MRSC recommends obtaining a certificate of completion from the person or agency conducting the training, as well as ensuring that the local elected official or PRO has a duplicate copy on file should there be a need to prove the requisite training has been completed. Compliance expectations and documentation should be addressed in the agency’s adopted PRA policies.



Note: In addition to in-depth all-day trainings that meet this training requirement for PROs, MRSC partners with the Association of Washington Cities to provide a 40-minute PRA training that meets the obligations for elected officials. The Attorney General’s Office also provides online [Open Government Training](#) for elected officials and PROs that includes the PRA Basics. More information is available on [MRSC’s Public Records Act](#) page.

The PRA does not mandate training for any other local government officials, employees (including IT professionals), or appointees; however, MRSC highly recommends agencies ensure all public employees, officials, and appointees receive records training. Such training will ensure that others can identify requests that come in through untraditional means, explain records retention obligations, assist the designated PRO in their duties, and also helps demonstrate to the courts an agency’s commitment to complying with the PRA. The agency’s training expectation for other officials, employees, or appointees should be addressed in both the agency’s adopted PRA policies and any applicable personnel policies.

Agency Obligations Under Other Statutes

The PRA is not the only statute that creates records-based obligations for local agencies. [Chapter 40.14 RCW](#), originally adopted in 1957, controls the preservation, storage, transfer, destruction, disposal, and management of public records and includes agency obligations to document and report their compliance with the PRA. Note that since these obligations are in a different statute, any failure to comply with these statutes is *not* a violation of the PRA itself but may become relevant during the penalty phase if a court concludes that an agency did violate a provision of the PRA.

PRESERVATION/RETENTION OF RECORDS

Public records are technically the property of the state of Washington, held in trust for its people ([RCW 40.14.020](#)). Officials and employees have no private property rights to public records, and outgoing officials and employees are required by law to turn over all records in their possession to their successors. While state agencies are required to designate records officers to oversee the maintenance, preservation, and disposition of their records, there is not a similar explicit requirement for local governments ([RCW 40.14.040](#)). However, many local government agencies charge their public records officer designated under the PRA with this responsibility. IT professionals will likely also be an important part of the records management team.

Agencies, officials, and employees are prohibited from destroying records any sooner than provided by established retention schedules. The [Local Government Records Retention Schedules](#) (CORE) and other retention schedules are developed and approved by a records committee and published by the State Archivist at the [Division of Archives and Records Management](#) (The Archives) within the Secretary of State's office ([RCW 40.14.050-.070](#)). The retention schedules contain categories of records with examples of the records that fit within those categories. A disposition authority number (DAN) is assigned to each category. Each category has a defined retention period that sets the minimum length a record must be maintained, along with a directive of how the record is to be disposed of at the end of that period (e.g. whether destroyed or transferred to another state agency). The schedules also indicate whether or not the record is archival and/or essential, and thus may have additional handling requirements.

The CORE provides the [retention schedules](#) of the common records most agencies maintain. The State Archivist also maintains at least 27 other schedules that apply to the unique categories of records held by specific types of agencies and departments. For example, one schedule applies to the records of Housing Authorities while another applies to Law Enforcement records. The Archives' website lists and periodically updates the unique, agency-specific retention schedules. Any question of whether a record is subject to a particular schedule, or category within that schedule, should be directed to the Division of Archives or applicable regional archivist.



Practice Tip: The state archivist also maintains many resources for the maintenance, preservation, and disposition of records based on the specific type of [government entity](#). These include tip sheets, webinars, one-on-one consultation, and certain grant programs.

Note that as an alternative to destruction, an agency is allowed to donate records of historical value (records created 70 or more years ago) to a state library, local library, historical society, genealogical society, or similar society or organization ([RCW 40.14.070\(3\)](#)). There is no authority to gift such records to any other person or entity.



Caution: Once an agency has disposed of a record in accordance with the schedules and has ensured there are no duplicate copies of the records in the agency's possession or control, the agency is no longer obligated to disclose the record in response to a records request. However, if the agency does still have the record, or a copy of the record, it must disclose the record – even if the record is long past its retention period ([RCW 42.56.100](#)). The agency cannot then dispose of the record until the pending request is closed.



Caution: Willfully and unlawfully mutilating, destroying, concealing, erasing, obliterating, or falsifying a public record is a felony ([RCW 40.16.010](#) and [40.16.020](#)). Purposely destroying a public record before its scheduled date with knowledge that destruction is premature is potentially subject to criminal prosecution.

TRACKING RECORDS REQUESTS

Agencies are required to maintain a log of all public records requests submitted to and processed by the agency ([RCW 40.14.026](#)). The statute lists out the specific information that must be tracked, including the identity of the requestor (if provided), the date received, the text of the request itself, how the request was fulfilled, and the date the request was closed.

The log itself is a public record subject to a retention schedule and disclosure requirements. Tracking logs are discussed in more detail in the section of this document titled [Tracking a Request](#).

REPORTING REQUIREMENTS

Agencies that expend more than \$100,000 annually on staff and legal costs associated with fulfilling public records requests are required to report certain metrics to the [Joint Legislative Audit and Review Committee](#) (JLARC) ([RCW 40.14.026\(5\)](#)). These metrics include, for example, the number of requests received, the time taken to fulfill the requests, the number of requests denied in full or in part, the total agency staff time spent on requests, estimated costs (including litigation costs and records management costs), and any money the agency receives from requestors, such as copy fees.

By July 1st, agencies are expected to report their data for the previous calendar year to JLARC's reporting system. JLARC then assembles the data into a report presented to the legislature the following January. The legislature then uses this information to inform its decisions related to records legislation. The reporting system, complete datasets, and yearly reports are available on JLARC's [public records reporting website](#).

While only agencies that spend over \$100,000 a year are required to track and report these metrics, all agencies are encouraged to voluntarily track and report their data to JLARC and their local decision makers. This data can inform the allocation of staff and financial resources.



Practice Tip: Some jurisdictions combine the metrics from the tracking log with the reporting metrics into a single electronic document or platform. This may be easier with some of the records request processing software and platforms, but may become unwieldy with a single spreadsheet.

Tips for Starting the Process

PROVIDE THE “FULLEST ASSISTANCE”

[RCW 42.56.100](#) requires agencies to “provide for the fullest assistance to inquirers.” That said, the statute also allows agencies to adopt reasonable rules and regulations to prevent records requests from creating excessive interference with the agency’s other essential functions ([Hearst Corp. v. Hoppe](#) (1978)).

Agencies can establish a preferred process for the public to request records (e.g. web portal instead of postal service). However, the agency cannot require the public to use that process. As such, the agency must accept records requests that do not utilize the preferred process ([O’Dea v. City of Tacoma](#) (2021)).

Agencies can also establish a preferred process for delivering records to requestors. However, the agency must at least consider if it is reasonable and technically feasible to deliver the records via the requestor’s preferred delivery method when that method is not the agency’s preferred one ([Mechling v. City of Monroe](#) (2009)).

Agencies are not required to provide multiple copies of the same record to a requestor, even if the requestor wants the copies delivered to several additional individuals ([Silva v. King County](#) (2005)).

Agencies are also not required to create new records, but have the discretion to do so under the Model Rules. Sometimes it is more convenient to create a summary document instead of redact and produce original records ([WAC 44-14-04003\(6\)](#)). In situations like that, the agency may choose to create a record (the summary document). When an agency creates a new document of its own volition, the agency should first verify with, and obtain a written agreement from, the requestor that they will accept the new record and do not want the original/source documents.

ASSUME DISCLOSURE

Almost every record in an agency’s possession will be subject to disclosure, with limited exemptions that may apply. It is tempting, particularly when sensitive information is involved, to start from a position of – “are we required to disclose this record?” Instead, agencies should start from the position that the record will likely be disclosed and *then* determine whether any law exempts or prohibits disclosure of all or part of the record(s). The PRA contains strong language in [RCW 42.56.030](#) that is in favor of disclosure:

The people of this state do not yield their sovereignty to the agencies that serve them. **The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments they have created.** The public records subdivision of this chapter shall be liberally construed and its **exemptions narrowly construed to promote this public policy.**

In line with this, the courts have consistently held that the only information which can be withheld from public disclosure is information which is specifically exempted by statute or other law. See e.g. [Brouillet v. Cowles Publishing Co.](#) (1990). Further, the courts interpret PRA exemptions narrowly. And if exempted information can be redacted from a record, the agency is required to produce the non-exempt portion of the record with the exempt information redacted.

Receiving and Tracking a Records Request

HOW ARE RECORDS REQUESTS RECEIVED?

Agencies receive requests for records in numerous ways (e.g., via records management “portal” systems, verbally, in writing, electronically, and more). As mentioned in the previous section on [Provide the “Fullest Assistance,”](#) the default requirement under [RCW 42.56.080](#)(2) is that the agency must accept and process requests regardless of how they are received.

[RCW 42.56.100](#) directs agencies to adopt rules that provide for full access to public records while preventing damage to those records and avoiding excessive interference with the agency’s other essential functions. This section specifically says that requests received by “mail” for copies of identifiable public records must be honored. This requirement was [added in 1975](#), but has not been updated since then to account for changes in technology. So, requests received by other means, such as phone, email, or social media are not specifically discussed in the statute.

Because an agency is given latitude to devise public records request procedures, it is reasonable to ask that a requesting party fill out a standard request form. But agencies should train their staff to recognize and accept a request for documents regardless of how that request is received.

DOES IDENTITY AND MOTIVATION MATTER?

Except in the specific situation where a statute entitles certain persons or entities to access particular records, the identity and motivation of the requestor are not to be considered by the agency in the PRA disclosure process (see [Special Circumstances Related to Certain Requestors](#) in the next section). This is true whether the individual seeking the record is doing so for private or public purposes. The one notable exception when motivation does matter is when the request is asking for a list of individuals to be used for commercial purposes, discussed in the section [List of Individuals for Commercial Purposes](#).

A 2002 Washington Court of Appeals decision ([King County v. Sheehan](#) (2002)) confirmed that, when one of the statutory exceptions does not apply, an agency is prohibited from inquiring into the proposed use of the information requested for disclosure.

This means that regardless of who the requestor is – a lawyer, another agency, the media, or even one of the agency’s own elected officials – they have the same access to records under the PRA as any member of the public. Further, agencies cannot require requestors to identify themselves (i.e., requestors are allowed to remain anonymous) unless they are seeking records that are only available to certain persons, news media, or agencies, or are seeking a list of individuals to be used for commercial purposes. ([RCW 42.56.080](#)).

Examples of other statutes outside of the PRA that entitle certain persons to records not otherwise available to members of the public include, but are not limited to:

- Records pertaining to a juvenile from a juvenile justice or care agency, the juvenile and their parents would be entitled to such records under [RCW 13.50.100](#)(7);
- Employees’ annual access to review their own personnel file ([RCW 49.12.240](#)); and
- Information and records to be shared with unions during labor agreement negotiations ([RCW 41.56.035](#)).

SPECIAL CIRCUMSTANCES RELATED TO CERTAIN REQUESTORS

Government Agency Requests

Importantly, other government agencies may have specific or general statutory authority to request or demand records outside the PRA. For example, [RCW 49.12.050](#) authorizes the Department of Labor and Industries to obtain a list of all employees from every employer, including public employers, in the state.

If the requesting government agency has statutory authority to obtain the records, then its request would not be processed as a PRA records request. In those instances, timelines and copying charge requirements under the PRA would not apply, although many jurisdictions still track whenever they provide records to any other agency. Sometimes an agency may have a data sharing agreement with another agency that controls the exchange of sensitive records, such as a multi-agency law enforcement task force ([RCW 39.34.240](#)).

Other times, government agencies do make their requests under the PRA. In those circumstances, all of the same PRA processing provisions would apply. Note that agencies should consider still charging for copies provided under the PRA. A statute known as the “Local Government Accountancy Act” ([RCW 43.09.210](#)) requires that local governments receive the “true and full value” for all property transferred from one department or public entity/agency to another. Because of this, agencies should include a section in their records policies that addresses interagency record production.

Internal Agency Requests

When a request for records comes from an agency employee or official, the agency needs to determine whether the request relates to agency work. If the records requested are not relevant to their scope of duties, then the request should likely be processed as a PRA request. If the employee or official needs the record for their official business, then the records should be shared without the formality of the PRA process. Some jurisdictions have adopted policies that address employee and official access to records. Note that records that are circulated for official business can still be redacted to limit the risk of inadvertent disclosure of otherwise exempt information.

News Media

Members of the news media, as defined in [RCW 5.68.010\(5\)](#), have greater access to certain personally identifying information about public employees and volunteers under [RCW 42.56.250](#) than the public does. Washington court decisions limit this access to news media outlets wherein the news organization has a legal identity separate from the individual making the request ([Green v. Pierce County](#) (2021)).

Prisoner Injunction Provision

A local government agency may file a court action in superior court to obtain a court order (injunction) prohibiting a prisoner from filing public records disclosure requests if the intent of the disclosure requests is to harass or intimidate an agency or its employees. There are clear standards for the types of evidence the agency must present to obtain the injunction. So long as the injunction is in place, the agency can deny additional requests made by the prisoner. See [RCW 42.56.565](#).

TRACKING A REQUEST

As mentioned previously, [RCW 40.14.026\(4\)](#) requires each agency to maintain a log of its public records requests.

At a minimum, this log must include:

- The identity of the requestor if provided;
- The date the request was received;
- The text of the original request;
- A description of the records produced in response to the request;
- A description of the records redacted or withheld and the reasons therefore;
- And the date of the final disposition, i.e. closure, of the request.

It is common to include additional information in the tracking log such as an assigned unique identifier, estimated installments dates, processing milestones, etc.



Practice Tip: MRSC recommends assigning each request a unique identifier such as a number/year or other code and listing it in the tracking log. Including this identifier in the tracking log, on all correspondence, and on any copies eventually produced will help the agency track and document its compliance with the PRA. It may also help track and differentiate multiple requests from a single requestor.

The log itself is a public record subject to a two-year record retention schedule. The log must be produced in response to a records request but note that there may be exemptions that should be applied, especially if the log contains any names of students, employees, victims, or witnesses. Further, names listed in the “identity of the requestor” might be considered a “list of individuals” under the commercial purposes prohibition. These exemptions are discussed more in the section on [Lists of Individuals for Commercial Purposes](#).

Reviewing a Request and the Initial Response

Once a public agency receives a records request, the PRO or designated staff must review it and develop a plan for responding. The following key threshold questions will help an agency determine a path forward.

INVESTIGATING A REQUEST – THRESHOLD QUESTIONS

What Is the Requestor Asking For?

When an agency receives a records request, staff must determine what the requestor is asking for. It is important to not be too legalistic or to interpret the request too narrowly. Consider whether there is mutual understanding about the terms used by the requestor (e.g., if the term “personnel file” is used, do the PRO, requestor, and other agency staff have a common understanding of the scope of what is included in a personnel file?). This initial review will help determine how and where to conduct the search for responsive records or whether clarification is needed.

Is It a Request for Identifiable Records?

A requestor must make a request for identifiable records ([RCW 42.56.080](#)). An “identifiable record” is a record that exists at the time of the request and one which an agency can locate. Requests for information and questions posed to an agency without reference to specific records are not considered requests for identifiable records under the PRA. See *Bonamy v. Seattle* (1998). Likewise, a request for all, or substantially all, records prepared, owned, used, or retained by an agency is not considered a request for identifiable records ([RCW 42.56.080\(1\)](#)). Additionally, if a request requires a PRO or agency employee to read every agency record in order to determine whether any of the records are responsive to the request, then it is not a request for an identifiable record. That said, a requestor can ask for all records related to a particular topic, keyword, project, or official, for example. Also, agencies should beware of digital records. If an electronic search of all of the agency records can be conducted with the keyword, then courts do consider it to be a request for an identifiable record. Additional examples related to “identifiable records” can be found in the Model Rules at [WAC 44-14-04002](#).

Note that agencies cannot deny a request that may be very big or “overbroad” ([RCW 42.56.080](#)). So long as the request contains some limitation in the scope of the request such that it is not a request for substantially all of an agency’s records, it is a valid request.

Is the Requestor Asking the Agency to Create a Record that Does Not Exist?

There is no obligation in the PRA for an agency to create a record in response to a public records request.

For example, a requestor may ask an agency to compile a report with information they are interested in reviewing. If this report does not exist at the time the request is made, the agency is not legally obligated to create it under the PRA. With that said, if a requestor could otherwise obtain the desired information by requesting individual records, and it is easier to run a report or create a spreadsheet than producing the individual records, the agency could offer to create the report if the requestor agrees.

What if an existing record contains some, but not all, of the information requested? The agency should produce the record that it does have, even if it does not contain everything the requestor is seeking. For example, a requestor may seek a vendor list with X, Y, and Z, information included. If the agency has a vendor list but it only contains “X”, it should produce that list.

Is It a “Standing” Request for Records?

Because an identifiable record is one that exists at the time of the request, a requestor may not make a standing or ongoing request for records. For example, a requestor could not ask for “all correspondence to date between Jane Doe and Councilmember Smith and any future correspondence between Jane Doe and Councilmember Smith through the end of this fiscal year.” In this example, the agency should provide any existing correspondence but should explain to the requestor that the agency is under no obligation to provide future correspondence and as such, the requestor would have to make subsequent requests for additional correspondence that may occur.

Is It a “Bot” Request?

If the same requestor has made multiple automated requests to an agency within a 24-hour period, and if an agency establishes that responding to multiple requests would cause excessive interference with agency functions, it can deny the request ([RCW 42.56.080\(3\)](#)). These are sometimes referred to as “bot” requests and were used by some requestors as an attempt to get around limitations on standing requests. The legislature added this provision to avoid excessive interference in agency functions. As a practical matter, these are not frequently an issue for an agency.

Is the Request Directed to the Correct Agency?

Sometimes a request for records will be directed to the wrong agency. If it is, the agency should inform the requestor and close the request. The agency has no duty to try to obtain the records from another agency or to forward the request. In [Limstrom v. Ladenburg](#) (*Limstrom II*) (1998) the court noted: “On its face the Act does not require, and we do not interpret it to require, an agency to go outside its own records and resources to try to identify or locate the record requested.” In a more recent, unpublished decision, the Washington Court of Appeals held that a county had no duty to produce records held by the superior court ([Cortland v. Lewis County](#) (2020)).

There is a difference between a request being directed to the wrong agency and a request involving records not currently held by the agency. The US District Court for the Western District of Washington held in [Contreras v. City of Tacoma](#) (2024) that a city had an obligation to produce records held in the database of another agency when the city created the records and used the database on a daily basis. The city could not simply refer the requestor to the other agency because the database was housed under that agency.

LIST OF INDIVIDUALS FOR COMMERCIAL PURPOSES

Of special consideration at this point in evaluating a request is whether the requestor is seeking a list of individuals that may be used for commercial purposes.

[RCW 42.56.070\(8\)](#) prohibits agencies from giving, selling, or providing “access to lists of individuals requested for commercial purposes” unless authorized by law. This provision prohibits disclosure “[...] if the requester has a commercial purpose and intends to directly contact or personally affect the individuals named in the list” ([AGO 1998 No. 2](#) and [WAC 44-14-06002\(6\)](#)).

The commercial purpose prohibition only applies to requests for “lists of individuals.” It does not apply to a set of records or other lists that a requestor might use to gather information that they could potentially use for commercial purposes. See [AGO 1975 No. 15](#). As an example, an agency could not inquire as to why a requestor is seeking a copy of the front page of all active permit applications filed with the city, even though the agency knows that the requestor could compile a list of names from those records.

In addition, this provision does not prohibit disclosure of lists of businesses, corporations, or partnerships; the statute only prohibits disclosure of lists of natural persons. See [AGO 1975 No. 15](#). Therefore, lists of private companies that have commercial value for targeted advertising must be disclosed upon request. Likewise, a list of individuals requested for political purposes does not fall within this prohibition as the list is not sought for “commercial purposes.” See [Wash. Pub. Emps. Ass’n v. Wash. State Ctr. for Childhood Deafness & Hearing Loss](#) (2019).

A list of other information, like property, that happens to have names associated with the information is not a “list of individuals.” However, if the information is in an electronic record, such as an Excel spreadsheet, that can be sorted to display lists of individuals, the prohibition applies. See [AGO 2019 No. 3](#). Another example of a potentially “sortable” list may include copies of an agency’s public records request log.

An investigation into whether to disclose a list of individuals is one of the only times agencies are authorized to inquire into the identity and motivation of the requestor. In [SEIU Healthcare 775NW v. State](#) (2016), the court held that an agency must investigate when it has some indication that a requested list might be used for a commercial purpose. The court also held that:

[M]erely requiring an affirmation from the requesting party is not sufficient to satisfy an agency’s obligation to investigate under [\[RCW 42.56.070\(8\)\]](#). When under the specific case facts an agency has an obligation to investigate, it must at least require a party requesting a list of individuals to state the purpose of the request.

The court provided three factors to consider when determining whether to investigate:

- The identity of the requestor;
- The nature of the record requested; and
- Any other information that is available to the agency.

When an agency has reviewed the factors above and made a preliminary determination that the request may be for a commercial purpose, the agency is to notify the requestor that, under [RCW 42.56.070\(8\)](#), a preliminary determination has been made that the records are being sought for a commercial purpose and, as such, the requestor needs to explain why this preliminary determination is incorrect. In other words, the burden shifts from the agency to the requestor to show they are entitled to the list.

Here is a [sample affidavit template](#) developed by the Attorney General’s Office that an agency could ask a requestor to complete. If the agency ultimately decides to withhold some or all of a list based on the affidavit, it should do so in consultation with the agency’s attorney in order to discuss potential liability.



Practice Tip: Consider producing the list with individual names redacted and explaining the prohibition, but also invite the requestor to provide the information necessary for the agency to investigate whether the unredacted list can also be disclosed.

Frequently Asked Questions



Must the city disclose the address list that it uses to mail newsletters to city residents when the list does not include the names of the occupants residing at the addresses and instead only refers to them as “resident”? Does it make a difference if the request is from the local chamber of commerce, a retail business, or a person campaigning for public office?

The list must be disclosed to anyone requesting it. Motivation is not relevant, and [RCW 42.56.070](#)(8) does not apply, because the list only identifies individuals as “resident” and thus is not a list of natural persons. If the list contained the residents’ names along with their addresses, it could probably not be provided to a retail business, but it could be provided to a political candidate for campaign mailing, since an election campaign would not be considered a commercial purpose.



Must the city disclose a list containing the names and addresses of all city residents who are delinquent in their Local Improvement District (LID) payments when the requestor is an employee of a company that provides home equity loans?

As it appears the request is likely for commercial purposes, the city should disclose the list, redacting the names pursuant to [RCW 42.56.070](#)(8), and provide only the addresses. The city should provide an opportunity for the requestor to submit an affidavit rebutting the city’s conclusion that the request is for commercial purposes.



Does the agency have to fulfill an anonymous request for a list of individuals for commercial purposes?

No. The agency is *required* to investigate whether a list of individuals will be used for a commercial purpose. MRSC believes the agency cannot conduct an adequate investigation if it does not know the requestor’s identity.

INTERPRETING THE REQUEST

Does the Request Need Clarification?

Sometimes all or portions of a records request are unclear. If so, an agency can ask the requestor to clarify. In fact, requesting clarification is one of the agency’s options in providing an initial response to a records request (i.e., [The Five-Day Response Letter](#) section) ([RCW 42.56.520](#)). An agency should put a deadline on a request for clarification, such as “If you have not responded to our request for clarification by [date], we will assume you do not want to provide clarification and as such, we will process your request as submitted.”

If portions of the request are clear, an agency should respond to those portions while waiting for clarification on the unclear sections.

If no clarification is received and the entire request is unclear, then the agency must send a closing letter indicating that it asked for clarification by a certain date, the requestor did not provide it, and the request is now closed. See more in the [Closing Letter](#) section of this document.



Caution: Note that rarely is an entire request so unclear that an agency cannot respond. A court will expect an agency to try to respond.

Could the Request Be Narrowed?

In some situations, such as when a very broad request for records is received, an agency may choose to reach out to the requestor to see whether they are willing to narrow their request. A conversation with the requestor could reveal that they do not actually want certain types of records that would have otherwise been considered a responsive record based on the original request. Likewise, if an agency runs an initial keyword search and discovers that the request would produce a large volume of responsive records, it could inform the requestor of the large response and ask whether the requestor wants to proceed with the original request or if they want to narrow/modify the request using a date range, alternative keywords, etc. This approach is sometimes called a “sample pull.” Importantly, the requestor is under no obligation to narrow or modify a request for identifiable records. If the requestor agrees to narrow the request, be sure to confirm in writing.



Caution: An agency does not satisfy its obligation to provide an initial response to a request for records within five days by asking if a request may be narrowed. See more in [The Five-Day Response Letter](#) section of this document.

INITIAL PROCESSING OF THE REQUEST

Issuing a Preservation Hold

Once an agency receives a request, any responsive records may not be destroyed, even if they could otherwise be destroyed under the applicable retention schedules. After receipt of a request, the PRO should notify relevant staff and put a hold on the retention/destruction schedule. The hold informs staff that they need to suspend their ordinary destruction and archiving of any records that may be responsive to the request. The PRO should also work with IT staff to stop any automatic electronic record disposal on accounts where there are likely responsive records.

Notice to Employees



Does the request likely include records found exclusively in a current or former employee's personnel, payroll, supervisor, or training file records?

If the request is for information or records located exclusively in an employee's personnel, payroll, supervisor, or training file, then an agency is required to give notice to the employee and to any applicable union representative, regardless of whether the agency ends up releasing a record ([RCW 42.56.250\(2\)](#)). We discuss this more in the section [Mandatory Notice to Employees](#) of this document but mention it here as the statute requires the agency to provide notice "upon receipt" of the request, likely to avoid an unreasonable delay in the release of records.

The Five-Day Response Letter (i.e., Initial Agency Response)

Agencies are required by [RCW 42.56.520](#) to provide an initial response to a public records request within five business days of receiving the request. The five days are five *business* days—weekends and holidays are excluded. "Day one" of the five-day count begins the next business day after receipt of the records request. So, if an agency receives a request on a Tuesday, Wednesday will be day one as long as that Wednesday is not a holiday. Assuming there were no intervening holidays, the following Tuesday would be the deadline for a five-day response.

MRSC recommends that an agency's PRA policies include a statement about what happens if a records request is submitted after business hours. MRSC has advised that a records request submitted after business hours is not "received" until the next business day, and therefore "day one" starts on the business day following the day it is considered "received."

Pursuant to [RCW 42.56.520](#), an agency may satisfy the requirement to provide a response within five days by doing any one of the following:

- **Providing the record(s)** (i.e., fulfilling the request).
- **Providing an internet address and link to the specific records requested on the agency's website.** The link must be to the requested records on the agency's own website. The link may not direct the requestor to an outside party's website and an agency may not make a requestor search for the records online. If the individual does not have internet access, then the agency must provide copies of the records or allow the requestor to view the records using an agency computer.
- **Acknowledging receipt of the request and providing a reasonable estimate of the time necessary to provide the records** (or at least the first installment of records). It is insufficient to only state that the agency needs more time to respond. There must also be an estimate for when the records (or an initial installment of records) will be available. See below for more information.
- **Acknowledging receipt of the request; seeking clarification if the request is unclear; and providing, to the greatest extent possible, a reasonable estimate of time necessary to respond if the request is or is not clarified.** If the requestor does not respond to the agency's clarification request, and the entire request is unclear, an agency need not further respond to the request other than to formally close the request. If portions of the request are clear, however, the agency must respond to those portions.
- **Denying the request.** See more in the section [Deny and Close a Request](#).

Estimating a Reasonable Response Time

If the request cannot be fulfilled within five days, the five-day letter must provide an estimate of the time it will take the agency to fulfill the request. If the agency is fulfilling the request in installments, it must provide at least an estimate of time it will take to complete the first installment, but it is not required to provide an estimate for the entire production. See [Health Pros Northwest, Inc. v. State](#) (2019).

The time estimates must be “reasonable.” In determining reasonableness, agencies should consider the following factors:

- volume of records requested;
- number of staff who may possess responsive records;
- whether records are kept in multiple locations;
- whether exemptions apply and the difficulty of redactions;
- extent of legal review required to determine potential exemptions or responsiveness;
- whether third-party or employee notice is required; and
- where the request falls in the request queue.

Some agencies have adopted rules for prioritizing requests; others have adopted rules that say how many hours a week or day they will spend processing requests. These policies should also be considered when providing a reasonable estimate of the time to respond. See MRSC’s [Public Records Act Basics](#) page for examples of these policies from agencies across the state.

The Model Rules say the following at [WAC 44-14-04003\(7\)](#) about providing a reasonable estimate of time to respond:

An agency should either fulfill the request within the estimated time or, if warranted, communicate with the requestor about clarifications or the need for a revised estimate. An agency should not ignore a request and then continuously send extended estimates. Routine extensions with little or no action to fulfill the request would show that the previous estimates were not “reasonable.” Extended estimates are appropriate when the circumstances have changed (such as an increase in other requests or discovering that the request will require extensive redaction). An estimate can be revised when appropriate, but unwarranted serial extensions deny a requestor access to public records.

If the agency knows it will miss a self-imposed deadline, MRSC recommends explaining to the requestor why there is a delay and then setting a new date for records to be produced. If an agency is sued for denying access to records due to delay, courts like to see regular communication with requestors on these issues.

Deny and Close a Request

Sometimes, although infrequently, an agency will need to deny a request at the outset without producing any records. To summarize, an agency may deny a request if:

- The request has been sent to the wrong agency;
- The request is totally unclear (this is rare) and the requestor has not responded to the agency’s inquiries for clarification;
- The request is for information, not an identifiable record; or
- The request is for all, or substantially all, of an agency’s records.

If an agency has a basis for denying a request at this point in the process, it must provide a written statement of explanation in a closing letter. See more in the section [Closing Letter](#).

Note that, while typically later in the process, withholding or redacting a record because an exemption applies is also considered a denial for purposes of judicial review. However, indicating that there are no responsive records after performing a search is not the same as denying access to records.

Searching for and Gathering Records

CONDUCTING AN ADEQUATE SEARCH FOR PUBLIC RECORDS

The PRA requires that agencies perform an adequate search to locate records responsive to a public records request.

The PRA itself does not provide detailed instructions on how to conduct an adequate search. Instead, those requirements can be found in court decisions interpreting the PRA, including [Neighborhood Alliance v. Spokane County](#) (2011) and [Block v. City of Gold Bar](#) (2015). Those cases direct agencies to:

- Conduct the search in a manner that is reasonably calculated to uncover all relevant documents;
- Consider all locations where responsive records are likely located; and
- Follow obvious leads as they are uncovered.

As technology and file management systems continue to evolve, responsive public records might be located in many different locations and formats. This is why it is essential to develop a search plan, especially for larger and more complex requests.

TIPS ON SEARCHING FOR RECORDS

Use a Checklist and Develop Search Terms

MRSC recommends that agencies [develop and use a search checklist](#). Using a checklist will help plan a specific search. It should be used as a basis to have conversations with staff and elected officials, especially the agency's IT department. That conversation should identify the physical and digital locations of records that might be responsive. It is also a good time to discuss and generate electronic search terms.

The search checklist is only a guide, and the agency should not limit itself to the original checklist. Make it an iterative process in which agency staff are comfortable chasing leads developed as they find records. Agencies can also share their checklist with the requestor and ask if the requestor suggests other search terms or possible record locations.

In developing search terms, consider the possibility that a subject may be referred to in multiple ways. For example, in a planning development or a public works project, files could be listed by address, owner name, construction company name, or some other nicknames that may have changed over time. Another example is in student records where a child may be referred to by their full name or by the initials.

For electronic records, balance casting a wide search net with the need to review the search results. Too narrow of an interpretation of the request can lead to an inadequate search. See, e.g., [Cantu v. Yakima School District No. 7](#) (2022). At a minimum, consider the use of Boolean search operators that will find variations on a search term. For example, using the “*” operator, as in “develop*”, will return results containing words such as “development,” “developer,” and “developing.”

Consider developing standard search locations and/or search terms for commonly requested records. For an example of this type of standard search outline, see MRSC's [PRA Adequate Search tip sheet](#).

Manage Time and Resources

[RCW 42.56.100](#) requires agencies to adopt reasonable rules to provide full public access to public records while protecting those records from damage or disorganization and preventing excess interference with other essential functions of the agency. Some agencies classify requests by volume and complexity, and also specify how much time per week or day they will spend processing requests. See examples of public records request policies from [Bainbridge Island](#) (2024) and [Snohomish County](#) (2017).

Search in Installments

Remember that the PRA allows an agency to provide records in installments ([RCW 42.56.120\(4\)](#)). Using installments may allow the agency to “pause” its search while waiting to see if the requestor reviews or accepts delivery of the first installment. If an agency chooses to do this, notify the requestor that the agency will provide records in installments and give them a reasonable estimate of the time when the first installment will be available.

As discussed in the section of this publication called [Installments and Deposits](#), the agency can close the request as abandoned if a requestor does not pay for copies or review or collect the copies by the established deadline.

Document the Search

Using the agency’s search checklist, document where the agency searched and what terms were used. If there was a location on the checklist that was not searched, document the rationale behind this decision. For example, if the checklist said staff might look in the public works file, an appropriate reason not to do so would be if the application was never reviewed by public works. Documentation of the search process will help the agency in meeting its burden to prove that the search was adequate.

PLACES TO SEARCH FOR RECORDS

Agency Email Records

Searching email mailboxes for records responsive to a records request is a particularly challenging task given the volume of emails sent and received by staff and officials. Consider investing in software that allows certain staff members to search all agency emails and find responsive records.

Examples of such software include [Barracuda](#) and [Commvault](#); see our [PRA & Records Management Technology Guide](#) for additional software options.

If an agency does not have the budget to invest in such software or have the capability to search all agency emails, consider using an email voting tool. This kind of tool allows the PRO to efficiently survey staff and officials on whether they have responsive emails as well as other issues related to records requests.



Practice Tip: Microsoft Outlook has a “voting function” that can be included in an email, which allows the email recipient to vote “Yes,” “No,” or “Maybe” regarding whether they have responsive records. To learn how to use the Outlook voting function, refer to MRSC’s [Microsoft Outlook Voting Function](#) tip sheet.

“Old” Equipment

Consider looking for records that may be stored on computer equipment used by former officers and employees, as well as equipment that is no longer being used because it has been replaced. If agency policy is that equipment is backed up and wiped when an officer or employee leaves or when the equipment is no longer used because of upgrades, it may be reasonable not to search on that equipment. But be careful to document the policy and that the policy is being followed. Otherwise, make sure that old equipment is searched if records may be stored there.

Agency Databases

Information in databases is stored as discrete inputs organized by the database software. Those individual inputs, or pieces of data, are themselves public records, and if the agency can generate a report from those fields using “off the shelf” software, it must do so. If providing the information requires custom programming, the agency may still be required to produce the custom report, but it can charge the requestor for the cost of the custom programming ([RCW 42.56.120\(3\)](#)). While agencies are not required to create records that do not exist on the day of a request, extracting data from a database into a new spreadsheet or other report is not considered the creation of a new record – rather it is the effort the agency must take to make the existing data available for inspection.

Server Back-Up Files

While we have no clear guidance from the courts or the Attorney General’s Office, MRSC believes there are legitimate arguments that local governments are not obligated to open and restore back-up server files to perform a search for responsive records unless there is reason to believe that a copy of an otherwise missing record can be found within the back-up server file. This position is based on what a court would likely consider to be “reasonable” in the specific context. If an agency gets a specific request to access the server back up and recover a particular file, it should be ready and willing to do so, but should also consider whether a customized service charge for providing access is appropriate. See [RCW 42.56.120\(3\)](#).

If someone asks for the backup file itself, that is likely the equivalent of asking for “all records” which means it is not a request for identifiable records.

MRSC understands from talking with IT professionals and the State Archivist, the purpose of server back-up files is disaster recovery for the agency’s computer and network systems. It is essentially a “moment in time” snapshot of the agency’s entire computer and network system. That file contains not only documents, but sensitive information about the agency’s computer and network systems. Revealing server organization and file locations would be a significant cybersecurity risk and arguably the basis for asserting an exemption under [RCW 42.56.420\(4\)](#). An agency could also argue that production of a “back up” may excessively interfere with agency functions in violation of [RCW 42.56.100](#) because it would require having sufficient infrastructure to restore the entire system before removing and redacting otherwise exemption information from the entirety of the file.



Caution: This analysis of back-up server files has not been tested in court and, if an agency chose this route, it would need to be very well supported with a declaration explaining in laypeople terms the nature of the back-up file, the security risk if disclosed, and the feasibility of search and/or redaction.

Metadata

Electronic records have a vast trove of digital information that is stored “behind the scenes.” This is data that is not immediately apparent when viewing an electronic record in its default status. This information is often referred to as “metadata” – because it is data about the data that is visible. Metadata could include, for instance:

- When the record was originally created;
- The original and subsequent authors;
- The number of times the document has been edited and by whom;
- File storage locations;
- Server IP addresses, and more.

The agency is required to produce non-exempt metadata if requested, and if producing it is reasonably and technologically feasible ([Mechling v. City of Monroe](#) (2009) and [O’Neill v. City of Shoreline](#) (2010)). The requestor must ask for metadata. They may do so by asking for it specifically, or by asking for electronic records in their “native” or original format.

Personal Devices and Accounts

Records related to agency business are public records regardless of where they were created or stored – that includes on personal devices and in personal email or social media accounts. However, there are practical and legal challenges to having agency staff perform a centralized search for responsive records that reside on an employee’s or official’s personal device or personal account.

Washington Courts recognize this and have said that the agency can reasonably rely on the employee or official to perform their own search of their device or account. See [Valderrama v. City of Sammamish](#) (2024). The employee or official then certifies that they have done the search by signing an affidavit or declaration that details the extent and nature of their search. The affidavit or declaration must be “reasonably detailed” and “nonconclusory,” and should describe the accounts, devices and locations searched and the names and search terms used to locate responsive records. An agency’s affidavits are entitled to a presumption of good faith.

See [Nissen v. Pierce County](#) (2015) for more guidance on what constitutes an adequate search of personal devices and personal email accounts.

Reviewing and Redacting Gathered Records

Before records can be provided to a requestor, they must be reviewed for responsiveness and potential withholding or redaction. This section defines responsiveness in the context of the PRA, provides a high-level overview of exemptions and withholdings, and covers best practices for redacting and creating exemption/withholding logs or communications.

DETERMINING WHETHER A RECORD IS RESPONSIVE

The first part of the records review process is determining if each record found is actually responsive to the request. What does it mean for a record to be “responsive”? A responsive record fits squarely within the requestor’s request. When a request is narrow or limited to specific documents, this should be fairly easy to determine.

But with larger or broadly worded requests, a more expansive scope of records may need to be gathered and then reviewed. For example, when gathering potentially responsive electronic records using keyword or Boolean search terms, it’s likely that not all records retrieved will be relevant. For instance, searching using the term “public records” will bring up many irrelevant records since most public officials have it in their disclaimer footer so it appears in every email they send.



Practice Tip: In keeping with the directive to provide the fullest assistance, inundating a requestor with non-responsive documents or charging a requestor for records they did not ask for is discouraged. At the same time, be careful about being too exacting in interpreting a request. When in doubt whether a record is responsive, the risk adverse approach is to provide it to the requestor.

It is important to review the entire record to determine responsiveness. A careful review will not only ensure an agency is not providing non-responsive records, but also that staff are not overlooking other potentially responsive material. For example, it can be tempting to just look at the subject line of a memo or email and believe it to be responsive, but this practice can lead to errors. It is common, especially in email chains, for the content of a record to depart from the original subject matter. The body of the email, as well as other types of documents, may also contain “breadcrumbs,” like references to other relevant materials or attachments, that should be followed to find additional records. Failure to follow obvious leads could result in a court finding that the search for responsive records was not adequate.

REVIEWING RECORDS FOR POTENTIAL EXEMPTIONS FROM DISCLOSURE

MRSC is often asked whether a certain public record is subject to disclosure, i.e., must the record be released to the requestor. As the PRA explains, every agency “shall make available for public inspection and copying all public records, unless the record” is a list of individuals requested for commercial purposes, falls within the specific exemptions of the PRA itself, or is exempt based on an “other statute which exempts or prohibits disclosure of specific information or records” ([RCW 42.56.070\(1\)](#)). The presumption is that a record is public and subject to disclosure. Agencies bear the burden of proving whether an exemption applies. We go into more detail in the section on [Exemptions Commonly Used by Local Governments](#), but there are certain underlying concepts related to the process of asserting exemptions that we explore here.

Maintaining a Working List of Commonly Applied Exemptions

While the PRA includes many exemptions listed in [Chapter 42.56 RCW](#), there are many other statutes that an agency can cite to justify withholding all or part of a public record. It can be difficult to track down these other exemptions. This is likely why agencies are required to create and make available to the public a list of commonly applied exemptions, other than those listed in the PRA, “that the agency believes exempts or prohibits disclosure of specific information or records of the agency”([RCW 42.56.070\(2\)](#)). To meet this obligation, many agencies simply incorporate into their PRA policies the list of exemptions found in state statutes that the Code Reviser is required to prepare every year for the [Sunshine Committee](#) (a.k.a. “public records exemptions accountability committee”) ([RCW 2.56.140\(7\)](#)). However, as of 2024, that list is over 30 pages long and includes many agency-specific exemptions that have no relevance for local governments.

Ideally, an agency should develop its own working list of exemptions that it uses often. This list could be customized based on the types of records the agency maintains, and the nature of requests it commonly receives. Such a list is helpful for two major reasons. The first is that a shorter list can be very helpful to records staff as they review records. To the extent that an agency has document review software, there should be a “key” for staff to consult as they review records and apply exemptions. Of course, staff will need to be generally aware of other potentially sensitive information and should be trained on how to identify other less common exemptions that might apply.

The second reason is to better inform the public and shape requestor expectations. If the list is made easily available, perhaps along with the agency’s adopted procedures and fee schedule (ideally on a website), an agency can potentially reduce the amount of friction that results when someone seeks a record that will not be disclosed. It may also provide some assurance to the subject of the record that their information would likely not be disclosed. For example, if an agency regularly receives requests for employee “payroll information,” a list of all the information and records that will and will not be disclosed may assist the requestor in determining whether the information they are seeking will actually be released. In the meantime, employees will know that their employer cannot be compelled to disclose certain listed information.

Special Considerations for Reviewing Electronic Records

When it comes to reviewing electronic records, especially records in their native format (as opposed to those that have been converted to another format, like “pdf”), records staff need to take additional review precautions. As discussed in the [Metadata](#) section of this publication above, electronic records in their native format include “metadata,” or data about the data that one could theoretically locate within the record. Some of that metadata information may be subject to an exemption.

Records staff should work with their IT professionals to identify the types of information that may exist as metadata within electronic records.



Caution: If a file allows a person to view different versions of a record, such as prior drafts and tracked changes, all of these versions should be reviewed before the original record is released in case there . Agencies should be especially mindful if an attorney was involved in the document drafting process (in which case the information may be protected as attorney work product) or if the agency works with individuals whose identity is protected (like witnesses, victims, welfare recipients, and juveniles.)

Another difficult aspect of working with original electronic records involves how information can be redacted from an electronic record without altering the original, which is discussed below.

REDACTING RECORDS

Records staff may be tempted to hold back the full record if an exemption applies. However, an agency cannot rely on an exemption to withhold an entire record if the protected information “can be deleted from the specific records sought” ([RCW 42.56.210\(1\)](#)). We refer to this deletion of information as “redaction.”

But what does it mean to “redact” a record? To redact means to hide or remove the content that is subject to a PRA or other statutory exemption. From a practical standpoint, how one hides or removes information depends on the nature of the record itself, but keep in mind that whatever process is followed, the original record must remain intact and unaltered.



Caution: It is a felony to intentionally and unlawfully “remove, alter, mutilate, destroy, conceal, or obliterate” a public record! ([RCW 40.16.010](#) and [RCW 40.16.020](#)).

Redacting Paper Records

Because it is illegal to alter an original paper document, the first step in redacting a paper record is to make a photocopy or digital scan. This copy of the record can now be altered for redaction purposes. Note that an agency cannot charge the requestor for any photocopies made solely for the purpose of applying redactions if the copy will not be provided to the requestor.

For paper photocopies, the method of redaction needs to completely obscure the text. This may require a second photocopy after the redaction is applied. Remember, if you can hold the paper record to the light and still see the redacted text, you have not completed the redaction. Likewise, any physically applied marks need to cover all parts of the text. If the tops or bottoms of letters can be seen, and then guessed, then the information has not been effectively redacted.

Additionally, we recommend a method that demonstrates the text was hidden intentionally. For paper copies, use a colored marker instead of white liquid paper. Liquid paper can make redactions invisible after photocopying, making it unclear if sections were blank in the original record or were later redacted. This is especially important for forms to clearly communicate what was redacted versus never filled out. Alternatively, a black box can be drawn around the whited-out area and/or redaction codes labeled overtop.

Redacting Electronic Records

As mentioned above, it is impossible to remove or obscure information in an electronic record without altering the record. One secure way to redact electronic records is to convert the file to pdf, which creates a static image of the record, and use redaction tools in software like Adobe Acrobat Pro or E-Discovery to remove the necessary information. (Note that free versions of most software do not come with these advanced tools). Converting to pdf will also likely remove any metadata or prior digital versions. If the requestor is seeking the records with metadata, then staff will need to work with IT professionals to extract the metadata for disclosure along with the pdf of the record, to the extent it is reasonable and technically feasible to do so.

Make sure that the digital tool actually removes the text from the electronic document. A known mistake is to use a mark out tool that seems to completely obscure the text, but it is actually a 100% opaque or “black”

highlighter software setting. The digital information is still below and can be viewed by a different user by removing the highlighter.

Again, reviewing staff should also be careful if the agency uses versioning software, where multiple versions are overlaid in the same electronic file, or if the file can be viewed with tracked changes or comments visible. By converting the document to pdf, only what is visible in the original record at the time of conversion will be visible in the final pdf.

If an agency lacks the software to convert the electronic record, staff may need to consider printing out the document and then physically redacting it as one would a paper record. This could happen, for instance, if redactions would modify a spreadsheet formula. Alternatively, after consultation with the requestor, staff may need to create an entirely new record that does not contain the exempt information but is still responsive to the request – such as running a new report from a database with non-exempt parameters.

PROVIDING AN EXPLANATION OF EXEMPTIONS APPLIED (E.G., EXEMPTION LOG OR LETTER)

If a record is redacted or withheld in its entirety, the agency needs to identify the specific statute(s) authorizing redaction or withholding and provide a brief explanation of how the exemption applies to the withheld record ([RCW 42.56.210\(3\)](#)). This identification is commonly done using an exemption log, but other methods are allowable as long as they meet the statutory requirement. This identification must provide sufficient explanatory information for requestors to determine whether the exemptions are properly invoked. The log or other explanation should include the type of information that would enable a records requester to make a threshold determination of whether the agency properly claimed the exemption. See [Block v. City of Gold Bar](#) (2015).

An exemption log typically consists of a table that includes a description of the record, a statement whether the record is withheld in its entirety or if only portions have been redacted, page numbers of the redactions, and a brief description of and statutory citation for the exemption. For an example of an exemption log that can be modified for an agency's use, see MRSC's [sample exemption log](#).

For smaller requests, a detailed letter explaining any redactions or withholdings can be used instead. Another option is to apply the redaction code directly to the document and include a key for reference. However, an agency's attorney should review this approach, as some exemptions might require more detailed explanations than can be provided in a simple key.

An agency must identify each page of a record where information has been redacted and specify the basis for each redaction. For example, the redaction of an employee's residential address on page five would be one entry. The redaction of the same employee's social security number on page seven would be a separate entry. If multiple redactions are on the same page, we recommend creating separate entries for each redaction in order to provide a sufficient explanation for each redaction.



Practice Tip: We recommend using a process known as Bates stamping, a method of sequentially numbering pages with a reference number that automatically advances on each page. Many software programs (e.g., Adobe Acrobat) also have a feature to add sequential numbering. This is especially helpful when managing a high volume of documents. For paper copies, there are physical stamps that automatically advance the number for each page.

If more than one statutory provision could apply to prohibit or limit disclosure, each should be included in the exemption log. The requestor challenging an exemption needs to be put on notice of why a record (or portion thereof) is being withheld before they file a complaint in court. Courts do not look kindly on late arguments that another exemption not listed in the exemption log might apply.



Caution: If an agency uses an exemption key or a cheat sheet for frequently used exemptions, make sure that the statutory citations are up to date. For example, in 2023 the legislature re-numbered [RCW 42.56.250](#), which contains many employment-related exemptions, and changed most paragraph numbers to letters. Moreover, if an agency uses a software program to auto-generate an exemption log, take steps to ensure the output is sufficiently detailed.

OPTIONAL (AKA THIRD-PARTY) NOTICE TO INTERESTED PERSONS REGARDING DISCLOSURE

An agency has the option of notifying interested parties before the agency releases records that may name or pertain to an individual(s) or private interest. ([RCW 42.56.540](#)). This notice allows any person named in a record or to whom the record pertains, an opportunity to ask a court to issue an order (i.e., “injunction”) to prevent an agency from releasing a record. Practitioners and courts sometimes refer to this optional notice as “third-party” notice. For more, see the section of this publication called [Injunction Challenges](#).

This option to provide notice is particularly useful in circumstances where an agency may be unsure how or if an exemption would apply or when there is sensitive information about an individual(s).

The Washington Supreme Court affirmed this practice when it explained that “[t]he person who is the subject of the public record is in the best position to identify what interest, if any, they hold that could be invaded as a result of disclosure of the public records” ([Does v. Seattle Police Dep’t](#) (2025)). The option to provide notice under [RCW 42.56.540](#) is the best mechanism for the agency to inform the subject of the pending request so that individual may seek a court injunction on that basis.



Caution: An agency will generally be immune from liability if an otherwise exempt record is released in good faith under the Public Records Act (PRA) ([RCW 42.56.060](#)). However, penalties may apply if the exemption or prohibition on release is based on a different statute (e.g., violations of the Criminal Privacy Act could result in civil and criminal penalties, see [Chapter 10.97 RCW](#).)

Procedure for Providing Third-Party Notice and Time to Respond

When deciding whether to notify an interested person under the optional notice provisions at [RCW 42.56.540](#), consider whether releasing the record could cause embarrassment, involve constitutional privacy concerns, or affect the financial interests of the individual or organization.

Once an agency decides to give notice, they should promptly do so to avoid claims of an unreasonable delay by the records requestor. As a best practice, the notice should include the text or a copy of the request, a description of the records likely to be released, the identity or contact information of the requestor, and a deadline by which the agency will release the requested record if the interested person does not act.

The typical practice is to allow ten calendar days from the date of the notice for the third party to go to court and obtain what is called a “preliminary injunction.” An agency should be aware of its local court’s requirements, some courts may only hear motions for injunctions on specific days (e.g., every other Friday), in which case a longer period should be the agency’s standard practice. The notice should include a clear deadline by when the interested person must act. For instance, the notice might state, “If this office does not receive a court-issued injunction by 8 a.m. on February 6th, the record will be released immediately.” An agency should also avoid delaying the release of responsive records based solely on the third party’s intent or promise to file for an injunction; this is not sufficient grounds and could also be considered an unreasonable delay.

Some jurisdictions also provide a copy of the likely-to-be-produced records (with redactions) so the third party can make an informed decision about whether to challenge the production. This is discretionary.

Finally, always inform the requestor that third-party notice has been given.

We recommend that agencies develop an official policy for when and for how long to provide third-party notice. This will hopefully provide clarity and consistency in making the decision to give optional notice.



Practice Tip: When providing notice to federal agencies, an agency may need to allow more time, such as 20 days, for them to file injunctions. Ask them to notify the agency as soon as possible if they do not object to disclosure.

MANDATORY NOTICE TO EMPLOYEES

As mentioned above, providing notice to interested persons may be mandatory in certain circumstances. One such circumstance is when an agency receives “a request for information located exclusively in an employee’s personnel, payroll, supervisor, or training file” ([RCW 42.56.250\(2\)](#)). Upon receipt of such a request, the agency must provide notice to the employee, any union representing the employee, and the requestor.

The mandatory notice requirement is limited to requests for information that is “exclusively” in the relevant files. Arguably, if the information is also available elsewhere, then the agency is not required to provide notice although it may be a good practice to exercise the option to provide notice under [RCW 42.56.540](#) regardless. It is unclear whether this mandatory notice also applies to former employees, so again, it may be a good practice to use the option to provide notice anyway.

Mandatory notices must state:

- The date of the request;
- The nature of the requested record relating to the employee;
- That the agency will release any information in the record which is not exempt at least ten days from the date the notice is made; and
- That the employee may seek to enjoin release of the records under [RCW 42.56.540](#).

This mandatory notice requirement applies regardless of whether any exemption might apply. Note that the notice should be provided as soon as feasible to avoid an unreasonably delay in the release of records.



Practice Tip: While the statute only requires that the notice inform the employee of the number of days after the date of the notice that the records will be disclosed, we recommend agencies include a specific date the records will be released if the employee does not present the agency with an injunction order from the court. For more, see the section of this publication called [Injunction Challenges](#).

Producing and Delivering Records

The Public Records Act (PRA) protects the public's right to inspect and copy records without interfering with local government agencies' operations or records preservation. Specifically:

- [RCW 42.56.100](#) requires agencies to adopt reasonable rules to provide full public access to records while protecting records from damage or disorganization and preventing excessive interference with other essential local government functions.
- [RCW 42.56.080\(2\)](#) provides that public records shall be accessible for inspection and copying and made promptly available, in installments if necessary.
- [RCW 42.56.090](#) requires public records to be available for inspection and copying during customary business hours for at least 30 hours per week, with hours posted on the agency's website and publicly communicated, unless an alternative time is agreed upon.

Once an agency has gathered and reviewed responsive records, it must make these records available to the requestor, who can opt to inspect the records on site or obtain digital or paper copies. The agency should adopt policies on how records will be made available for inspection and copying and make that policy easily available to requestors. A clear policy can frame requestors' expectations and help ensure equal treatment of requestors.

Further, it is important to provide an explanation for any records that are being withheld or redacted at the time of delivery.

INSTALLMENTS AND DEPOSITS

There are two important tools available to agencies when managing larger requests – installments and deposits.

[RCW 42.56.080\(2\)](#) authorizes agencies to produce records “on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure,” and [RCW 42.56.120\(4\)](#) provides that, if a requestor fails to claim or review an installments of records, the agency is not obligated to fulfill the balance of the request.

Additionally, [RCW 42.56.120\(4\)](#) permits an agency to estimate, in advance, the total copy cost for a production. Based on this estimate, agencies may require a 10% deposit to be paid in advance. The estimate can include a customized service charge. The section on [Copying Charges – Agency Options and Limitations](#) below goes into more detail.

If the advance deposit is not paid within a reasonable time or an installment is not claimed or inspected, the agency can deem the request abandoned and close the request, as discussed more in the section [Abandoned Requests](#).

METHODS OF DELIVERY

As noted in [WAC 44-14-04004\(2\)](#), an agency should provide the copies in the format and manner requested by the requestor if reasonable and feasible. If the agency cannot comply, it should be prepared to explain why and to offer an alternative.

In-Person Inspection

An agency can make records available for in-person inspection using several methods. Paper records and files can simply be set aside for viewing, although the agency may need to set a time limit for how long the records are pulled out of place to avoid interference with records filing and storage. This option is only available if no redactions are necessary.

If redactions are necessary, the agency will need to make copies to apply the redactions. Note that the agency cannot charge for these “inspection” copies unless the requestor opts to take these copies with them.

For in-person inspection of electronic records, the agency will need to find a method that allows inspection but still protects the security of the agency’s IT systems. A laptop or other terminal with access to the records, but not additional agency systems, is one possibility.



Caution: The requestor should not be allowed to attach or connect any of their own electronic storage devices—e.g., USB drives, external hard drives, wireless/Bluetooth phone connections—to agency devices. This poses a significant IT security risk.

An agency should not allow the requestor to take original paper or electronic records out of the building, as there is potential for loss or damage. While the public can examine the records at the agency or make copies, the records must remain in the agency’s custody. The requestor can also use their own equipment to make copies, scans, or photographs, however it may be necessary to have staff monitor the requestor’s review to ensure proper treatment of records. As discussed in the section [Agency Office Hours for In-Person Inspection](#), records should be available during an agency’s customary office hours but it may be necessary to schedule an appointment so staff can be available. Again, in the interest of providing “fullest assistance” to the requestor, it is important not to be unduly restrictive in the timing and length of the appointment.

Paper Copies

Records staff can prepare paper copies or set originals aside for the requestor to make copies using agency facilities. In both cases, the agency can charge for the physical paper and the use of the machine. Copy charges are discussed in more detail below. Note that the agency cannot charge for intermediate copies of records that are generated only for redaction purposes.

It may be necessary to send certain records out for professional copying. This may occur with very high-volume records productions or large dimension records, i.e., building plans. In cases like these, the agency should be sure that the adopted copy charge fee schedule includes an “actual cost” fee for specialized copy services. However, the agency should not incur these costs until after informing the requestor of the estimated charge.

Some requestors may ask for paper copies of electronic records. If possible, the agency should provide the copies in the format and manner requested. However, providing paper copies may not be feasible if a requestor is seeking an electronic record in native format or with its metadata.

Delivery of Paper Copies

To deliver paper copies, the agency can either mail the records at a cost to the requestor, or the requestor can pick up the copies from the agency’s office. When mailing records, the agency can charge for the cost – like postage or envelopes. The agency should decide whether or in which circumstances to utilize certified mail

with tracking. The requestor should be informed that if they fail to pay for or pick up the copies, their request will be deemed abandoned, as discussed in the section on [Abandoned Requests](#).

Electronic or Digital Copies

The vast majority of an agency's records are likely in digital or electronic format. These records may have always existed in digital form, or they may have started out as paper records that were digitized for retention. In many instances, the agency will be able to simply copy the electronic record "as is" to comply with the requestor's preferred method of delivery, discussed further below.

However, it may occasionally be necessary to convert the digital record to another format to make it accessible to the requestor. For example, if the requestor does not have Microsoft Outlook, they may not be able to view email records provided in a "pst" format. Instead, the agency may need to convert to a universal reader format, like "pdf." If the electronic record happens to be data stored within a database, it may be necessary to run a new report or data compilation or otherwise provide customized electronic access services. This is not considered the creation of a new public record; rather, it is part of the process necessary to make the record available to the requestor.

When it comes to electronic records that are under the control of third parties, like social media, the agency will need to take steps to retain its own copy via a capture tool. This obligation to retain a copy exists regardless of whether the agency receives a request for the record and it is this retained copy that should be made available to requestors. See State Archives' [Strategies for Managing Social Media Records Retention](#). Agencies do not meet their obligation to "make records available" by directing a requestor to a third-party website or digital platform that the agency does not control.

Delivery of Electronic Records

There are several different methods of delivering electronic records. Many jurisdictions use record request portals to upload records to a unique digital location that allows the requestor to download copies. Be sure the platform is completely separate from the agency's electronic record management system. Sharing links via One Drive, Microsoft Teams, Google Docs, etc., exposes the original digital records as well as the file storage system to potential cyberattack or alteration.

Another method, particularly for large requests, is to save the records to an external storage device, like a portable hard drive or USB memory stick, that can be mailed to or picked up by the requestor. As discussed below, agencies can charge for storage devices, as well as for mailing costs, in addition to the digital copies themselves. Again, for IT security reasons, never attach a digital storage device to an agency computer that has not been under the control of the agency since purchase.

If the records already exist on an agency-controlled website, the agency can simply provide direct links to the records – likely via an email. See [RCW 2.56.520\(1\)\(b\)](#). An agency cannot charge for providing links to records that are already available online unless the requestor specifically asks for the record in a different format ([RCW 42.56.120\(2\)\(e\)](#)). Note that the link must be directly to the record itself. It is not sufficient to link to an agency's online database directing the requestor to search for the records themselves. And again, an agency does not meet its statutory obligation to make records available by only providing a link to a third-party website it does not control.



Caution: Emails with multiple links in the body often get flagged as potentially dangerous and may be filtered to junk email folders. Be sure to send a separate follow up email without links to confirm receipt of the original email.

Finally, while a common practice, care must be taken when delivering digital records as email attachments. Often, these attachments exceed the allowable file size, sometimes resulting in delivery failures that may not bounce back for several hours. Still, breaking up multiple attachments into several emails invites more potential for human and computer error. MRSC recommends limiting email attachment sizes to less than 20 MB and/or if the entire production or installment can be accomplished with a single email, confirm receipt with a follow-up email. Otherwise, we recommend choosing one of the alternatives detailed above.



Practice Tip: When it comes to digital records, particularly in instances where there is no charge for the record, we recommend using a delivery method that indicates if the records have been claimed within a reasonable timeframe. These may include an online records portal or document exchange platform that logs access and download history.

COPYING CHARGES – AGENCY OPTIONS AND LIMITATIONS

Unless another statute provides otherwise, the Public Records Act sets forth how and when public agencies may charge a requestor for costs associated with fulfilling a public records request. See [RCW 42.56.120](#) and [RCW 42.56.070\(7\)](#). Importantly, an agency may only charge for the actual cost of the physical or digital copies produced to the requestor, which may include the cost of staff time in creating the copies, as discussed more below.

Agencies may not charge for many aspects of the records production process, such as time spent searching, documenting, reviewing, or redacting records (with the exception of Body Worn Camera recordings, referenced below). Further, agencies cannot charge for on-site inspection of records, links to records publicly available on the agency's website, or copies made for applying redactions or preparing records for inspection (that the requestor does not take with them).

An agency is not required to charge for copies of public records, although we recommend that an agency do so. If an agency does charge for copies, it must do so pursuant to an adopted fee schedule ([RCW 42.56.070\(7\)](#)). [RCW 42.56.070\(7\)](#) and [RCW 42.56.120](#) set forth an agency's options for charging copying fees, which also authorizes agencies to collect costs on a rolling basis if records are produced to the requestor in installments. See also [WAC 44-14-070](#) and [44-14-07001](#). An agency must formally adopt copying charge policies, even if it opts for the default costs laid out in the statute, and those copy policies must be available to the public.



Note: An agency has discretion to waive any copying charges pursuant to adopted rules. Agencies should be careful that any policy to waive charges is either equally available to all or is structured in a manner to avoid the constitutional prohibition against the [gift of public funds](#). Note that some agencies have a policy to only charge for records that would exceed some minimum dollar threshold (e.g., \$2, \$3, or \$5). This is to avoid an administrative burden, as the cost of collection may exceed the fee recovered.

Below are the three primary methods for establishing copying costs allowed by the PRA. For a good overview of charges, see this one-page [summary](#) prepared by the Washington State Attorney General's Office.

Option 1: Actual Cost

Agencies can charge the actual cost incurred for providing copies by adopting a statement of costs, after notice and a public hearing ([RCW 42.56.070\(7\)](#)). Choosing this method requires agencies to identify the actual cost of providing copies by conducting a fee study.

For hard copies, actual cost includes:

- The cost of paper,
- The per-page cost for use of agency copying equipment,
- The cost of postage or delivery charges and the container used for delivery, and
- Staff time to *copy* and *send* the requested public records.

For electronic copies, actual cost includes:

- The cost of electronic production or file transfer of a record,
- The use of cloud-based storage and processing services,
- The transmission of records in electronic format, including the transmission charge and the media device used for delivery, and
- Staff time to *copy* and *send* the requested public records.

Again, if the records are provided via a link to the agency's website where the records are already publicly available, the agency cannot charge for the provision of that link.

Option 2: Statutory Default Charges

Alternatively, if agency policy establishes that calculating actual costs would be unduly burdensome, it can adopt the statutory default charges listed in [RCW 42.56.120](#):

- 15 cents/page for photocopies or printed copies of electronic records,
- 10 cents/page for records scanned into electronic format,
- Five cents for every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system,
- 10 cents/gigabyte for transmitting records electronically,
- The actual cost of the digital storage media/device, container used to mail the copies, and postage or delivery charges, and
- A customized service charge for requests that would require information technology expertise to prepare data or provide customized electronic access.

Option 3: Flat Fee Up to \$2 per Request

An agency also has the option to charge a flat fee of up to \$2 per request as an alternative to actual or default costs if it estimates the copying cost for the request are equal or more than \$2. This flat fee can only be charged once per request, not per installment ([RCW 42.56.120\(2\)\(d\)](#)).



Note: Sales tax may not be charged for copies made in response to a public records request, as these charges are exempt under [RCW 82.12.02525](#).

Charges Associated with Law Enforcement Records

In addition to the authority to charge for copying within the PRA, there are also several statutes specific to law enforcement agencies that allow for different types of cost recovery beyond the typical charges in the PRA:

- **Body Worn Camera Redaction:** [RCW 42.56.240](#)(14) allows agencies to charge for staff time spent redacting body worn camera video recordings for requestors other than those set forth in subsection (14)(e) of the statute. These charges are in addition to the regular costs allowed under [RCW 42.56.070](#)(7).
- **Criminal History Records Information:** [RCW 10.97.100](#) allows criminal justice agencies to establish and collect reasonable fees for the dissemination of criminal history record information to agencies and persons.
- **Traffic Accident Reports:** [RCW 46.52.085](#) allows law enforcement agencies to adopt a standard fee to cover the costs of furnishing copies of traffic accident reports, regardless of the number of pages in the report.
- **Sheriff Department Audio, Visual, or Photographic Material:** [RCW 36.18.040](#)(1)(t) allows sheriffs to collect fees for the reproduction of audio, visual, or photographic material, including the actual cost of personnel time.

Closing a Request and Afterwards

An agency can close a request when:

- It has provided all the responsive records, with or without applying exemptions;
- It has a basis for denial of the request (e.g., the agency is not the correct agency that holds the requested records; the request is a request for information or is not a request for identifiable records; the request is for personal records that are not public records, the request was for all or substantially all of the agency's records, etc.);
- The requestor failed to clarify an entirely unclear request; or
- The records request has been abandoned or withdrawn.

ABANDONED REQUESTS

There are times when an agency can deem a PRA request abandoned ([RCW 42.56.120\(4\)](#)). This may occur when a requestor fails to pay the advance deposit, pick up the responsive records or an installment, pay for the requested records or an installment, or provide contact information for delivery purposes.

The PRA Model Rules at [WAC 44-14-04005](#) addresses inspection of records and abandonment. The rules suggest adopting a policy that allows a 30-day timeframe for reviewing or claiming the records before the request is deemed abandoned. After a request is deemed abandoned, the agency can formally close it and is no longer bound by the records retention requirements of the PRA prohibiting the scheduled destruction of a requested record ([RCW 42.56.100](#)).

Agencies can avoid wasting staff time by adopting policies and procedures that require the requestor to be an active participant in the records fulfillment process by making a deposit payment or taking delivery of an installment. This is one reason MRSC recommends adopting a policy to charge for copies. If an agency does not charge for copies, it may not be able to utilize the 10% deposit option.

If the request is deemed abandoned, it is important to formally close the request and send a closing letter.



Practice Tip: To document abandonment when producing records in installments, an agency should be diligent about numbering the installments and tracking them in a log. Agencies should also keep track of whether an installment has been picked up, downloaded, and/or paid for.

CLOSING LETTER

To formally close a request and start the time period during which a person can file a suit against the agency claiming records were wrongfully withheld, e.g., the “statute of limitations,” the agency must issue a final, definitive response that is “sufficient to put [the requestor] on notice that the [agency] did not intend to disclose records or further address this request.” See [Belenski v. Jefferson County](#) (2015). This “final, definitive response” must contain certain elements articulated by the Supreme Court in [Cousins v. Dept. of Corrections](#) (2024).

First, the letter must be in plain language that can be understood by a lay audience. This means there should be little to no legal jargon in the letter.

Next, the letter must explain how the request was fulfilled and why the agency is now closing the request. Some examples of proposed language may include:

- “All responsive records have been produced and the request is now closed.”
- “Due to nonpayment of copy charges for the previous installment, your request is now closed.”
- “We notified you on [date] that you needed to inspect or pick up your records by [due date]. You have not done so, and your request is now closed.”
- “On [date] we told you that your request was unclear and requested clarification by [due date]. We did not hear from you. Because you did not clarify your request and it is entirely unclear, by law we are not required to further respond to your request. Your request is now closed.”



Practice Tip: Agencies are encouraged to communicate to the requestor what they can expect and what actions the requestor needs to take to obtain records. However, a “final, definitive response” is one that states that the request is now closed. Explaining that a request *will be* closed in the future if the requestor fails to act in some manner (pick up copies, make a payment, clarify the request) does not meet this standard. See [Soule v. State of Washington](#) (2024).

Next, the agency must inform the requestor that the PRA’s one-year statute of limitations for a requestor to seek judicial review has started to run and that the agency does not intend to further address the request. The statute of limitations is discussed in more detail below.

Consistent with [WAC 44-14-04006](#), the agency must also invite the requestor to ask follow-up questions about how the agency has responded to the request. The agency can specify a reasonable time frame during which the requestor should ask such follow-up questions. Importantly, the agency must *actually* respond to those questions. Additionally, if the agency does not intend to do anything else with the request, then it must explicitly inform the requestor and indicate that the request is still closed. Alternatively, the agency can respond that it will conduct a further search for responsive records but the agency should be aware that this may pause the clock on the statute of limitations.

MRSC also recommends that agencies inform requestors of their right to seek internal review of any denials of requests per [RCW 42.56.520](#)(4) (local governments) or [RCW 42.56.530](#) (state agencies), as well as invite requestors to submit a new request now that the current request is closed.

If additional records are discovered after a request is closed, e.g. in response to questions raised by the requestor or by coming across the records during other work, they should be produced to the requestor in an expedited manner with an explanation of whether the request remains closed (i.e., the statute of limitations continues to run) or if the agency is reopening the request and further records are likely to be produced. See [WAC 44-14-040](#)(13).



Practice Tip: Developing templates for closing letters is a great way to ensure that all the important information is included, however all templates should be approved by the agency attorney to ensure compliance with the PRA.

AFTER A REQUEST IS CLOSED – HOUSEKEEPING

Once a records request is closed, there are several “housekeeping” duties an agency needs to complete.

First, an agency should update its PRA tracking log as required by [RCW 40.14.026\(4\)](#) and discussed in [Receiving and Tracking a Records Request](#). This includes “a description of the records produced in response to the request, a description of the records redacted or withheld and the reasons therefor, and the date of the final disposition of the request,” i.e., the issuance of the closing letter.

While there is no statutory guidance on the form this log should take, very large requests will likely result in very large entries to the log. Consider linking the log to separate documents, such as the exemption log or the file where all duplicate copies may be retained, to meet the statutory requirements. Regardless, the tracking log should describe the collected records in enough detail that someone could recreate the response if necessary. Be sure any other work-flow tracking checklists or forms are fully complete so that the process of responding to the request is well documented.

Next, an agency needs to organize and prepare for the retention of any records related to the request and that document the agency’s compliance with the PRA. These records must be retained for at least two years after the request is fulfilled—longer if any litigation follows. See [Local Government Common Records Retention Schedule](#), GS2010-014, *Public Disclosure/Records Requests*. This includes, but is not limited to:

- Internal and external correspondence relating to the request;
- Records documenting the public records provided to the requestor (copies or lists of the records provided, etc.);
- Records documenting the public records (or portions) withheld (exemption logs, copies of portions redacted, etc.);
- Records documenting administrative reviews relating to the request;
- Tracking logs.

Note that the list of records required to be retained explicitly excludes copies of the records produced; however, as noted in [WAC 44-14-04006\(3\)](#), there may be other business reasons to keep a duplicate of all copies of records produced to the requestor:

In some cases, particularly for commonly requested records, it may be wise for the agency to keep a separate copy of the records it copied and provided in response to a request. A growing number of requests are for a copy of the records provided to another requestor, which can easily be fulfilled if the agency retains a copy of the records provided to the first requestor.



Caution: It is common to receive requests for records that were previously produced for another requestor. Before doing so, it is very important to review and update any exemptions previously applied. It may be necessary to either remove or add exemptions. This may happen when either the original requestor or the new requestor was the subject of the record and so certain exemptions designed to protect their privacy need to be reconsidered. A new exemption log or letter should also be prepared for the new requestor.

Finally, the agency should assign a “destruction or disposition date” for the retained records related to the request. This is the date on which the records are eligible for destruction. We suggest organizing the tracking logs by calendar year for more effective planning. For example, all the records associated with a request closed

sometime in 2025 could be safely destroyed January 1, 2028. However, if litigation is pending, the agency must put a hold on any destruction of related records.

AGENCY AND JUDICIAL REVIEW

There are two important ways agency decisions related to a public records request can be reviewed. The first is an internal review and the second is a court or “judicial” review.

Internal Agency Review

Pursuant to [RCW 42.56.520](#)(4), agencies are required to “establish mechanisms for the most prompt possible review of decisions denying inspection.” This is intended to be an informal and fairly quick internal process to enable an agency to reconsider its denial. Often the agency attorney is identified as the person that will review any denials upon request. The statute states that the internal “review shall be deemed completed at the end of the second business day following the denial of inspection,” so the opportunity to cure any errors in the denial is very brief.

Note that while agencies are required to have the “mechanisms” for internal review, requestors are not and cannot be required to take advantage of this opportunity for internal review before filing a court case for judicial review of a denial ([Kilduff v. San Juan County](#) (2019)).

Judicial Review

There are several types of judicial review procedures available—some may occur while a request is still being processed by the agency while other challenges may only occur after a request is closed. Additionally, some challenges may only be brought by the requestor, while other challenges may be brought by interested parties.

Injunction Challenges

The PRA authorizes any agency or a person named in a record or to whom the record pertains to seek an injunction order from the superior court to prevent an agency from disclosing a record in response to a pending records request ([RCW 42.56.540](#)). As mentioned before, agencies may opt to provide notice to a third party who may be interested in whether a record(s) is disclosed or not. This injunction procedure is the only option available to those interested parties to seek a court order preventing disclosure of certain records.

To be successful, the party seeking the injunction order must first show that an exemption or prohibition on the disclosure of the record or information applies. Then the party must also prove both that disclosure would:

- Clearly not be in the public interest, *and*
- Substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions.

Such challenges typically arise after an agency provides notice to interested persons, as allowed by this statute, although receiving notice is not a prerequisite for filing for an injunction. Requestors may also intervene and become a party in these challenges.

Agency Declaratory Judgment Action

While not specifically referenced in [chapter 42.56 RCW](#), the courts have acknowledged that agencies have the right to seek a declaratory judgement order under the Uniform Declaratory Judgment Act (UDJA), [chapter 7.24 RCW](#). See [Benton County v. Zink](#) (2015). While there are significant limits on the availability of the UDJA, courts

have found that when an agency is faced with an existing request for records under the PRA and the real potential for a lawsuit, it has the necessary standing to seek a declaratory judgment that it has complied with the PRA. The procedures for obtaining a declaratory judgment are controlled by the UDJA, not the PRA.

Requestor Challenges

There are two types of judicial review initiated by the requestor.

The first type authorizes a requestor to file a motion in superior court challenging the reasonableness of an agency's estimate of the time required to respond to a request or the estimate of the charges to provide copies ([RCW 42.56.550\(2\)](#)). These challenges may be brought as soon as the agency provides its estimate. The burden of proof is on the agency to show that its estimate was reasonable. This is why it is important to contemporaneously develop documentation that justifies the estimates.

The second, and perhaps most litigated, option is to file a motion in superior court challenging any denial to inspect or copy a public record ([RCW 42.56.550\(1\)](#)). These challenges can be brought once an agency denies access to a record. In most circumstances, the denial cannot be challenged until the agency has stated it will refuse to produce the record or information. Typically, this occurs in the closing letter. Even if interim exemption logs or letters are provided for installments (a recommend practice), "the agency does not deny access to the records until it finishes producing all responsive records." See [Hobbs v. State](#) (2014) and [Cortland v. Lewis County](#) (2020). That said, a "lack of diligence" in processing a request can be deemed a "constructive denial," allowing the requestor to bring a case even while records are being produced. See [Cantu v. Yakima School District No. 7](#) (2022).

Again, the burden of proof is on the agency to demonstrate that the refusal to permit inspection or copying (i.e., to withhold or deny access) was consistent with a statutory exemption or prohibition on the release of the record.

Procedure and Penalties of Judicial Review

As discussed above, there is a one-year statute of limitations for bringing a lawsuit pursuant to the PRA after the request has been closed ([RCW 42.56.550\(6\)](#)). This period is strictly enforced and will be measured from the day after the agency sends its "final, definitive response." See [Bogen v. City of Bremerton](#) (2021).

When a court reviews a local government disclosure action, it will review the facts anew (de novo) and is not bound to accept any factual determination made by the agency, nor give any deference to the agency's decision. To prevent otherwise exempt information from being reviewed in public, the courts may examine any record "in camera," which means behind closed doors with no parties present ([RCW 42.56.550\(3\)](#)). The court may also conduct a hearing based solely on affidavits and declarations, meaning it does not need to take live testimony.

When reviewing agency action, the court is required to consider the broad public policy favoring disclosure, even though disclosure might cause inconvenience or embarrassment to public officials or others. Even extreme inconvenience, such as very large or broad requests, does not excuse an agency from compliance with the PRA. See [Zink v. City of Mesa](#) (2007).

If a public agency prevails, there is no monetary recovery unless the claim brought by the requestor is determined to be frivolous, which is a very high bar to meet.

If the court finds the requestor prevailed against the agency to compel production of a record or finds the original estimate of time to produce was unreasonable, the agency must pay the requestor's court costs, including attorney fees ([RCW 42.56.550\(4\)](#)). If the requestor prevails on the question of the estimate of costs,

they are not entitled to attorney fees. If the case was originally brought by an interested third party seeking an injunction to prevent the agency from disclosing the records, but the requestor eventually prevails, there is no monetary recovery against the agency.

Additionally, per [RCW 42.56.550\(4\)](#), the court may also decide to award the prevailing requestor a penalty “amount not to exceed one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.” This is a per-day/ per-record penalty calculation.

A non-exclusive list of factors for a court to consider as either likely to reduce or increase a penalty was laid out in [Yousoufian v. Sims](#) (2010) and includes:

Non-exclusive factors likely to REDUCE statutory penalty include:	Non-exclusive factors likely to INCREASE statutory penalty include:
1. The lack of clarity of the PRA request; 2. An agency’s prompt response or legitimate follow-up inquiry for clarification; 3. Good faith, honest, timely, and strict compliance with all the PRA procedural requirements and exceptions; 4. Proper training and supervision of personnel; 5. Reasonableness of any explanation for noncompliance; 6. Helpfulness of the agency to the requestor; and 7. The existence of systems to track and retrieve public records.	1. A delayed response, especially in circumstances making time of the essence; 2. Lack of strict compliance with all the PRA procedural requirements and exceptions; 3. Lack of proper training and supervision of personnel and response; 4. Unreasonableness of any explanation for noncompliance; 5. Negligent, reckless, wanton, bad faith, or intentional noncompliance with the PRA; 6. Dishonesty; 7. Potential for public harm, including economic loss or loss of governmental accountability; 8. Personal economic loss; and 9. A penalty amount necessary to deter future misconduct considering the size of the agency and the facts of the case.

When determining the penalty amount necessary to deter future misconduct, it may also be appropriate for a court to take into account the size and financial resources of the agency. See [Zink v. City of Mesa](#) (2018).

The purpose of these penalties is to focus on overall agency culpability due to an overarching concern for deterrence. See, e.g., [Cantu v. Yakima School District No. 7](#) (2022). If the agency otherwise complied with the requirements of the PRA but mistakenly overlooked a responsive document, it “should be sanctioned less severely than an agency that intentionally withheld known records and then lied in its response to avoid embarrassment” ([Neighborhood Alliance of Spokane Cty. v. Cty. of Spokane](#) (2011)).

Remember, the PRA requires reasonable thoroughness and diligence, not absolute perfection. See, e.g., [Freedom Foundation v. DSHS](#) (2019).

Exemptions Commonly Used by Local Governments

While the Public Records Act (PRA) contains numerous exemptions, only some are commonly used by local governments. This chapter will provide an overview of these more commonly used PRA exemptions, as well as the exemptions/prohibitions found in “other statutes” (a phrase used in [RCW 42.56.070\(1\)](#) to indicate that reasons to withhold records are also contained in other state and federal laws).

For an additional review of PRA and other statutory exemptions and prohibitions, see [Chapter 2](#) of the Open Government Resource Manual published by the Washington State Office of the Attorney General. Readers may also be interested in reviewing MRSC’s page [Exemptions and Prohibitions for Local Government Records](#) and the “Exemptions and Prohibitions” section of the [Public Records Act FAQs](#) page.

A GENERAL NOTE ON PRIVACY AND “PERSONAL” INFORMATION

Inherent in many of the specific exemptions in the PRA is the legislature’s attempt to balance personal privacy interests against the need for public transparency in government. For example, exemptions for certain personal information of public employees such as residential addresses and personal cell phone numbers are expressly included within the PRA and are intended to protect an individual’s privacy interests as well as the public’s interest in the efficient administration of government by attracting and retaining well-qualified public employees. See [RCW 42.56.250\(1\)\(d\)](#).

However, the legislature has been clear that the PRA itself does not contain a general “right to privacy” in public records or information unless the right to privacy is explicitly referenced in the statute. See [RCW 42.56.050](#). There are only three exemptions in the PRA that explicitly reference a person’s right to privacy. These are:

- **Personal information in files maintained for employees, appointees, or elected officials** of any public agency *to the extent that disclosure would violate their right to privacy* ([RCW 42.56.230\(3\)](#)); and
- **Specific intelligence information** and **specific investigative records** compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential [...] *for the protection of any person’s right to privacy* ([RCW 42.56.240\(1\)](#)); and
- **Information required of any taxpayer in connection with the assessment or collection of any tax** if the disclosure of the information to other persons would [...] *violate the taxpayer’s right to privacy* or result in unfair competitive disadvantage to the taxpayer ([RCW 42.56.230\(4\)](#)).

That said, this “right to privacy” does not encompass everything someone might consider “private” or embarrassing in these three categories of records. Rather, [RCW 42.56.050](#) narrowly defines the violation of a person’s right to privacy to be only if the disclosed information is *both*:

1. Highly offensive to a reasonable person; *and*
2. Not of legitimate concern to the public.

What does it mean for disclosure to be “highly offensive to a reasonable person”? If disclosure would only be “offensive” and not “highly offensive,” an exemption invoking a person’s right to privacy would not apply ([Brouillet, et al., v. Cowles Publishing Company](#) (1990)). This is because the “right to privacy” under the PRA “will

not protect everything that an individual would prefer to keep private” ([Predisik v. Spokane School Dist. No. 81](#) (2015)). Instead, the court in Predisik noted that “a person has a right to privacy under the PRA only in matters concerning the private life.” The court referred to the Restatement 2nd of Torts summary of the right to privacy:

Every individual has some phases of his life and his activities and some facts about himself that he does not expose to the public eye, but keeps entirely to himself or at most reveals only to his family or to close personal friends. Sexual relations, for example, are normally entirely private matters, as are family quarrels, many unpleasant or disgraceful or humiliating illnesses, most intimate personal letters, most details of a man’s life in his home, and some of his past history that he would rather forget.

This is the type of information the disclosure of which might reasonably be considered “highly offensive.” But even then, if there is a legitimate concern to the public, the exemption would not apply ([Brouillet, et al., v. Cowles Publishing Company](#) (1990)).

Information of “legitimate” concern to the public means information that is of “reasonable” concern. For example, courts have held that disclosure of employee performance evaluations which do not discuss any specific instances of misconduct would be “highly offensive” under the two-part privacy test because “employee evaluations qualify as personal information that bears on the competence of the subject employees.” And for most employment positions, those performance evaluations are of “small public concern” and therefore meet the second prong of the privacy test. See [Dawson v. Daly](#) (1993). However, a court has held that a city manager’s performance evaluation must be disclosed because that information is of legitimate concern to the public. The court concluded a city manager is “not like other employees” because it is the “city’s chief executive officer, its leader and a public figure. The performance of the city manager’s job is a legitimate subject of public interest and public debate” ([Spokane Research & Defense Fund v. City of Spokane](#) (2000)).

Unfortunately for records professionals, the application of the privacy right under the PRA depends upon the unique facts of a situation and is not amenable to a bright-line rule ([Predisik v. Spokane School District No. 81](#) (2015)). At best, we can look to past court cases with similar facts. Because applying this exemption and the privacy test will be a fact-specific exercise, it should be done in consultation with the agency attorney. If there is a question, the risk-adverse approach would be to provide the interested party notice of the potential disclosure under [RCW 42.56.540](#).

Notably, general rights to privacy do exist outside the PRA in “other statutes,” specifically the state and federal constitutions ([RCW 42.56.070](#)(1)). However, there is no duty on a public agency to defend and protect an individual’s alleged right to privacy in public records under the state or federal constitutions. Instead, as explained by the Washington Supreme Court, it is sufficient for an agency to provide notice to an individual under [RCW 42.56.540](#), allowing the individual the opportunity to seek a court injunction preventing the release of the records. See [Does v. Seattle Police Department](#) (2025).



Note: Importantly, the PRA often exempts “personal” information. This is not necessarily the same as “private” information and has a different definition. “Personal information” is information that is “peculiar or proper to private concerns” ([Lindeman v. Kelso School Dist. No. 458](#) (2007)). Some exemptions explicitly list or provide examples of what is considered “personal information” and others narrow the scope to “personally identifying information.”

PUBLIC EMPLOYEE RECORDS

There are several exemptions applicable to personnel and public employment-related records. Generally, the exemptions apply to records related to both current and former employees. See [Seattle Fire Fighters Union, Local No. 27 v. Hollister](#) (1987) and [Belenski v. Jefferson County](#) (2015). Often these exemptions apply to both records held by the employing agency as well as other agencies that handle employment-related records, like the retirement system or workers compensation.

Again, there is an obligation on agencies to provide notice to employees and their union representatives (where applicable) of any request for information contained exclusively within their employment files ([RCW 42.56.250\(2\)](#)). See the section [Mandatory Notice to Employees](#) for more.

The following sections will provide an overview of the types of employment and employee-related information and records that are exempt and/or protected, and those that are typically subject to disclosure.

Employee Hiring (Application Materials, etc.)

The PRA includes employment-related exemptions that broadly protect materials submitted as part of the hiring process. See [RCW 42.56.250](#). The exemptions enable individuals to apply for local government employment without worrying about disclosure of their applications or the fact that they are seeking other employment. This exemption applies to all non-elective local government positions, including administrative positions, such as city manager, or professional positions, such as city attorney or city engineer. The exemption explicitly excludes applications to fill vacancies for elected offices. Further, it only refers to employment positions and does not appear to apply to other volunteer positions like citizen advisory committees or planning commissions.

The following information is exempt in the employee hiring context:

- **Test questions, scoring keys, and other examination data** used to administer a license, employment, or academic examination ([RCW 42.56.250\(1\)\(a\)](#)).
- **Applications for public employment**, including applicant names, resumes, and other related materials submitted with respect to an applicant (e.g., information submitted by prior employers in response to requests for information about an applicant). ([RCW 42.56.250\(1\)\(b\)](#)). See also [Beltran v. Dep't Social & Health Services](#) (1999). To the extent applicant names appear in other documents, like calendar invites, interview schedules, interviewer notes, etc., they should be redacted.
- **Background checks and pre-employment polygraphs** are included within the meaning of “other materials submitted with respect to an applicant” at [RCW 42.56.250\(1\)\(b\)](#). See [Sheats v. East Wenatchee](#) (2018).
- **Employment entrance medical examination records and pre-employment psychological evaluations**, if the evaluation is in the nature of a medical evaluation. Note that these records should be maintained with heightened confidentiality in separate medical files. See [RCW 70.02.020](#) (*Disclosure by Health Care Provider*), [WAC 162-22-090\(4\)](#) (which covers disability-related medical records), and the federal Americans with Disabilities Act (ADA), specifically [29 C.F.R. § 1630.14\(b\)\(1\)](#) and (d)(4)(i). The Equal Employment Opportunity Commission (EEOC), the federal agency that enforces the ADA, discusses when a psychological examination is considered to be a “medical” examination in its enforcement guidance on [Preemployment Disability-Related Questions and Medical Examinations](#).



Note: Some agencies interpret [RCW 42.56.250\(1\)\(a\)](#) to protect interview notes and reference check notes, but others do not. The most risk-averse approach is to not apply the exemption to interview notes and reference check notes, given the PRA liability for wrongfully withholding a record; however, the answer is not clear, so the agency attorney should be consulted on applicability of the exemption. To the extent the notes identify an applicant by name, the name should be redacted. For a more detailed discussion, see the question on MRSC's FAQ, [Are interview notes or reference check notes exempt?](#)

Employee/Official Personal Information – Right to Privacy

The PRA includes a general exemption protecting personal information about employees, appointees, or elected officials stored in public agency files *to the extent that disclosure would violate their right to privacy* ([RCW 42.56.230\(3\)](#)).

As noted in the section [A General Note on Privacy and “Personal” Information](#), a person's right to privacy is invaded or violated if a disclosure would:

- Be highly offensive to a reasonable person; *and*
- Is not of legitimate concern to the public ([RCW 42.56.050](#)).

Application of this employee/official personal information exemption involves three separate considerations:

- whether the records contain personal information;
- whether the public employees have a privacy interest in that personal information; and
- whether disclosure of that personal information would violate their right to privacy ([Predisik v. Spokane School District No. 81](#) (2015)).

Courts have defined “personal information” as “information relating to or affecting a particular individual, information associated with private concerns, or information that is not public or general” ([Bellevue John Does 1-11 v. Bellevue School Dist.](#) (2008)). The right of privacy applies “only to the intimate details of one's personal and private life,” in contrast to actions that take place in the public ([Dawson v. Daly](#) (1993)).

While not an exhaustive list, below are some examples of cases where the courts have applied the privacy test in the context of employee information. Note that the application of this exemption will be highly fact-dependent and should be reviewed with the agency's attorney.

Courts have held the following records and information **are exempt** from disclosure:

- **Routine performance evaluations of employees which do not discuss specific instances of misconduct.** Disclosure of information between a public employee and supervisor generally serves no legitimate public interest and would interfere with maintaining a candid and open employee evaluation process if made public to anyone upon request. Courts have determined release of these evaluations is presumed to be highly offensive. See [Dawson v. Daly](#) (1993) (performance evaluations of deputy prosecutor), [Church of the Divine Earth v. Tacoma](#) (2020) (performance evaluations of public works and planning department heads), and [Brown v. Seattle Public Schools](#) (1993) (performance evaluations of former school principal). However, a court has held evaluations of a City Manager, essentially the chief executive officer or leader of the city, are of legitimate public interest ([Spokane Research & Defense Fund v. City of Spokane](#) (2000)). See more in MRSC's FAQ, [Are performance reviews exempt?](#)

- **Identities of employees who are subject to unsubstantiated allegations of sexual misconduct.** One factor in determining whether information is of legitimate concern to the public, in context of right-to-privacy exemption, is whether the information is true or false. Generally, the public has no legitimate interest in finding out the names of people who have been falsely accused. Note, however, that the remaining non-identifying portions of the investigatory report should be disclosed ([Bellevue John Does 1-11 v. Bellevue School Dist.](#) (2008)). See also [Bainbridge Island Police Guild v. City of Puyallup](#) (2011). For a more detailed analysis, see MRSC's FAQ, [Are disciplinary records exempt?](#)
- **Portions of employee's emails and text messages that are unrelated to the conduct of government and solely related to the intimate personal details of an employee's life.** There is a legitimate public interest in the amount of time a public employee spends on personal matters, but not in the content of those personal emails or phone calls or conversations ([Tiberino v. Spokane County](#) (2000)).

The following information is **not exempt** from disclosure:

- **Salary and benefit information of public employees.** The disclosure of employee names paired with benefits would allow public scrutiny of the government and ensure that the government is not paying one employee twice or funneling money to non-existent employees ([Tacoma Pub. Library v. Woessner](#) (1998)).
- **List of names and ranks of law enforcement officers.** It is not highly offensive to disclose the fact of public employment, even if that information could be linked with other publicly available information that could reveal private information about the officers ([King County v. Sheehan](#) (2002)).
- **Employees' public conduct.** The disclosure of a police officer's involvement in a bachelor party or strip show at a private club was not considered highly offensive, as it occurred in front of more than 40 people ([Spokane Police Guild v. State Liquor Control Board](#) (1989)). Likewise, disclosure of the identities of officers that participated in the highly public and televised events of January 6, 2021, at the United States Capitol, was not "highly offensive" where the officers took no steps to hide or obscure their identities ([Does v. Seattle Police Department](#) (2025)).
- **Records relating to substantiated employee misconduct.** These records are considered to be of legitimate public interest, even if they may cause embarrassment to the employee involved. Misconduct, whether on duty or off, that "bears on ability to perform" public duties is "not private, intimate, personal details" of a state patrol officer's life, but rather is an issue of public concern ([Cowles Publ'g Co. v. State Patrol](#) (1988)). See also [Brouillet v. Cowles Publishing Co.](#) (1990) (records regarding the revocation of teacher certifications are a matter of public concern). Similarly, in [Morgan v. City of Federal Way](#) (2009), the court held that investigations into and confirmation of inappropriate behavior by a municipal court judge were of significant public interest and subject to disclosure. The fact that the judge disputed the allegations did not mean they were unsubstantiated. For a more detailed analysis, see MRSC's FAQ, [Are disciplinary records exempt?](#)
- **Records showing pending investigations of public employees related to alleged misconduct.** The mere fact that an investigation is open and an employee is on administrative leave is not protected under the privacy test ([Predisik v. Spokane School District No. 81](#) (2015)). Note, however, that the subsequently adopted exemption at [RCW 42.56.250\(1\)\(f\)](#) may apply to protect open investigative records depending on if the investigation is related to unfair work practices or discrimination or harassment.
- **Performance evaluation of a city manager/agency leader.** In a council-manager code city where the city manager is the most senior executive leader and a public figure, the public has a legitimate interest in the disclosure of the city manager's performance review ([Spokane Research & Defense Fund v. City of Spokane](#) (2000)). Contrast this to performance evaluations of other public employees, including senior department heads, which do meet the privacy test (see above).

- **Settlement agreements, except for personal details that may meet the privacy test.** Settlement agreements between employees and their employer are of legitimate public concern and must be disclosed, even if they were intended to be confidential. But some personal information in a settlement agreement may be exempt from production under a public records request based on the right to privacy or other specific exemptions. ([Yakima Newspapers, Inc. v. City of Yakima](#) (1995)).



The local newspaper heard that one of the city shop employees was disciplined for repairing his personal vehicle in the city shop. The newspaper has requested a copy of the investigation report prepared by the employee's supervisor, and a copy of the letter of discipline which was placed in the employee's personnel file. Should the records be disclosed?

Yes. The state supreme court has determined that the public has a legitimate interest in records concerning acts of misconduct by city employees which have been investigated and sustained ([Dawson v. Daly](#) (1993)).



What if an employee or former employee requests their own records that would otherwise be confidential or exempt from disclosure?

If the information is part of an employee's personnel file (as defined in [RCW 42.56.240\(2\)](#)), the employee has a legal right to inspect the file annually. See [RCW 49.12.240-.250](#). The right extends to former employees, as well. Any copies of those records are to be processed in accordance with the procedures and requirements set forth in the PRA. [RCW 42.56.250\(2\)](#).

More generally, when it comes to requests submitted by the subject of a record, there is non-binding language in a PRA case that indicates that "all requesters would be entitled to their own identifying information" ([City of Fife v. Hicks](#) (2015)). This weighs in favor of an agency exercising its discretion to not redact personal information (after taking steps to confirm the requestor is indeed who they claim to be).

Employee/Official Personal Information – Specific Exemptions

This part identifies the sections of the PRA and "other statutes" where personal information of employees is specifically exempt from disclosure. Note that some of the exemptions only apply to records when they are maintained in certain places, such as personnel files. It will be important to read each exemption/prohibition carefully.

Personal Identifying Information

[RCW 42.56.250\(1\)\(d\)](#) expressly protects the following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency:

- Residential addresses,
- Residential telephone numbers,
- Personal wireless telephone numbers,
- Personal email addresses,

- Social security numbers,
- Driver's license numbers,
- Identocard numbers,
- Payroll deductions including the amount and identification of the deduction,
- Emergency contact information of employees or volunteers of a public agency,
- The names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency.



Note: Records professionals might be tempted to apply the exemptions at [RCW 42.56.250\(1\)\(d\)](#) to other records – like emails from members of the public or residential addresses included on a meeting sign-in sheet. However, these specific exemptions for personal information only apply to employees, officials, and volunteers. There may be other exemptions that protect some personal information of private individuals (e.g., related to taxpayer information or utility billing), but agencies cannot rely on this exemption to withhold information related to those other than public employees/officials/volunteers. Likewise, it matters where this information is located. In [Mechling v. City of Monroe](#) (2009), personal email addresses of city councilmembers used to conduct city business were found not to be exempt, because they were not considered personnel or employment-related records—which is a component of the statutory exemption. When it comes to applying exemptions, context matters.

Photographs and Month and Year of Birth in a Personnel File

[RCW 42.56.250\(1\)\(h\)](#) protects photographs and month and year of birth in personnel files of employees or volunteers of a public agency, except that the news media as defined in [RCW 5.68.010\(5\)](#) can gain access to this information. See [Green v. Pierce County](#) (2021). This likely applies to copies of badge photographs.



Practice Tip: If records responsive to a request include full dates of birth, consider asking the requestor to narrow their request to exclude employees' full date of birth so that redactions can be applied in a much faster manner (rather than having to redact the month and year individually).

Personal Identifying Information of Survivors of Sexual Assault/Domestic Abuse/Harassment

In order to protect employees and their dependents that may be survivors of domestic violence, sexual assault, sexual abuse, stalking, or harassment, or if they participate in the address confidential program under [chapter 40.24 RCW](#), [RCW 42.56.250\(1\)\(i\)](#) exempts the employee's name and other personally identifying information including but not limited to birthdate, job title, addresses of work stations and locations, work email address, work phone number, bargaining unit, or other similar information. The documentation needed to support asserting this exemption is also exempt from disclosure. This exemption also applies if the identifying information appears in lists and directories of employees.

Tax/Payroll Information

[RCW 42.56.230\(4\)\(b\)](#) protects an employee's federal tax withholding data to the extent disclosure would violate their right to privacy. And [RCW 42.56.250\(1\)\(d\)](#) exempts payroll deductions including the amount and identification of the deduction.

For more information, see MRSC's FAQ, [Is an employee's personnel file and payroll record exempt?](#)

Religious Affiliation

[RCW 42.56.235](#) exempts all records that relate to or contain personally identifying information about an individual's religious beliefs, practices, or affiliation.



Practice Tip: While the wording of the exemption implies an entire record is exempt, the practice is to only redact the religious affiliation information.

Financial Information

If an agency has any of the following financial information related to an employee, it is exempt from disclosure under [RCW 42.56.230\(5\)](#):

- Credit card numbers,
- Debit card numbers,
- Electronic check numbers,
- Card expiration dates,
- Bank, and other financial information as defined in [RCW 9.35.005](#) including social security numbers, except when disclosure is expressly required by or governed by other law ([RCW 42.56.230\(5\)](#)). The definition of "financial information" in [RCW 9.35.005](#) includes account numbers and balances, transaction information, codes, passwords, driver's license numbers, and other information held for account access or transaction initiation.

Workplace Complaints – Investigatory Records

Workplace investigations into allegations of harassment or discrimination are exempt in their entirety while the investigation is active and ongoing ([RCW 42.56.250\(1\)\(f\)](#)). Once the investigation is complete, certain identifying information of complainants, other accusers, and witnesses must be redacted, unless they consent to the disclosure. Agencies must redact the names, images, employee agency job titles, email addresses, and phone numbers of complainants, other accusers, and witnesses. Any voice recordings may only be disclosed if the recording can be "altered while retaining inflection and tone."



Note: The exemption appears to potentially apply to the identifying information of non-employee "other accusers or witnesses," so long as there is a "complaining employee."

Employee Health-Related Information

Health-related information might be maintained in employee records for various reasons. An agency could have health-related records to support a reasonable accommodation request sought by an employee under the Americans with Disabilities Act (ADA). An agency could have a proof of vaccination, results of a required medical or psychological examination, results of mandatory drug-testing, or records to support entitled leave, for example.

Several state and federal laws come into play when evaluating the confidentiality and/or disclosure requirements for employee health-related information and medical records.

For a discussion of health care records in other contexts (e.g., public agency as provider or agency in possession of private health-related information), see the sections [Health Care Information When Public Agency is Health Care Provider](#) and [Health Related Information of Private Individuals](#) below.

Employee Health-Related Information – Right to Privacy

With regard to an employee's medical records or other health-related information, agencies may be able to apply [RCW 42.56.230\(3\)](#), which exempts personal information in files maintained for employees, to the extent that disclosure would violate their right to privacy. See the section [Employee/Official Personal Information – Right to Privacy](#), above. The agency would need to determine that the two prong privacy test (i.e., the information is both highly offensive and of no legitimate interest to the public) is met. Employee health-related records would typically be considered of no legitimate interest to the public, but disclosure must be highly offensive, as well. Note that for most employee health information that may be in possession of a public agency, other more specific statutory exemptions and confidentiality provisions may be easier to apply – but this provision could be a backup to fill in when there is ambiguity in applying these other exemptions, discussed next.

Medical Records

[RCW 42.56.360](#) is the PRA exemption covering health care records, although most of the subsections relate to specific records held by state agencies and are not applicable to local governments. However, [RCW 42.56.360\(2\)](#) generally references [chapter 70.02 RCW](#) (known as the Health Care Information Act, or HCIA), which relates to the public inspection and copying of health care information of patients.

[RCW 70.02.020](#) of the HCIA prohibits a *health care provider* from disclosing health care information about a patient to any other person without the patient's written authorization. Health care information is defined as information that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care ([RCW 70.02.010\(17\)](#)).

While most local government agencies would not be considered health care providers (with some limited exceptions, e.g., public hospital districts, certain public health districts, and emergency medical services), the HCIA does provide that:

[P]ersons other than health care providers obtain, use, and disclose health record information in many different contexts and for many different purposes. It is the public policy of this state that a patient's interests in the proper use and disclosure of the patient's health care information survives even when the information is held by persons other than health care providers ([RCW 70.02.005\(4\)](#)).

We are aware that this section is cited as an “other statute” that agencies rely on to withhold medical records they may have in their possession—even when they are not the original health care provider.



Caution: Before citing [RCW 70.02.005\(4\)](#) and [RCW 42.56.360\(2\)](#) as an exemption, agencies should confirm whether the records contain “health care information” as defined in the HCIA, i.e., whether the information directly relates to the patient’s health care. In [Hines v. Todd Pacific Shipyards Corp.](#) (2005) the court held that the confidentiality protections of [chapter 70.02 RCW](#) did not apply to employer-mandated drug testing results. Likewise, psychological evaluations performed with the intent to get leniency in sentencing from the court were not protected from disclosure under [chapter 70.02 RCW](#) ([John Does v. Department of Corrections](#) (2018)). In both situations, the records were generated primarily for purposes other than a patient seeking medical care. If records do not meet the definition of health care information, then the agency would need to determine whether a different exemption applies (e.g., [RCW 42.56.230\(3\)](#) related to an employee’s right to privacy or ADA protections).

Reasonable Accommodations and Required Medical Examinations – Americans with Disabilities Act (ADA)

There are confidentiality provisions within the [Americans with Disabilities Act](#) (ADA) (considered an “other statute” under [RCW 42.56.070\(1\)](#)). If there is medical or health care information provided to an employer that is part of a workplace disability accommodation or required medical examination/disclosure (either pre-employment or ongoing employment), federal law protects that information under the ADA at [42 U.S.C. § 12112\(d\)\(3\)\(b\)](#). See also [29 C.F.R. § 1630.14\(c\)\(1\)](#). Examples of required medical examinations could include law enforcement medical and psychological examinations, as well as vision exams for employees operating equipment requiring a commercial driver’s license. Records covered by these provisions are entirely exempt from disclosure and only a limited set of people are entitled to access the information. For more information about the confidentiality requirements, see these resources:

- [U.S. Equal Employment Opportunity Commission: The ADA: A Primer for Small Business](#)
- [Great Lakes ADA Center: Confidentiality Requirements Under the ADA](#) (2018)



Practice Tip: Both state and federal law require that medical files be kept separate from personnel files and in a secure manner with limited access. See [WAC 162-22-090\(4\)](#) (which covers disability-related medical records) and the federal ADA at [29 C.F.R. § 1630.14](#) (more broadly covering medical examinations, not just disability-related records) ([42 U.S.C. § 12112\(d\)\(3\)\(b\)](#)).

Drug Testing Results (Typically Not Exempt)

As noted above, in [Hines v. Todd Pacific Shipyards Corp.](#) (2005) the court held that the confidentiality protections of [chapter 70.02 RCW](#) did not apply to employer-mandated drug testing results. Mandatory tests for illegal drugs or post-incident intoxication testing are also not considered the type of medical examination which would be treated as confidential under the ADA. See the U.S. Equal Employment Opportunity Commission’s [The ADA: A Primer for Small Business](#). In the absence of a specific exemption, an agency could consider applying the employee privacy analysis to determine whether all or a portion of drug testing results would be subject to disclosure. A test revealing illegal drug use would likely not meet this standard since illegal drug use by a public employee would be a legitimate concern to the public. However, there may be an argument

that the results of any drug testing not associated with a specific incident that reveals the presence of legal or prescription drugs should be protected under the right to privacy analysis.

Workers Compensation/Industrial Insurance Files

All information contained in Department of Labor and Industry (LNI) claim files and records of injured workers is confidential under [RCW 51.28.070\(1\)](#):

Information contained in the claim files and records of injured workers, under the provisions of this title, shall be deemed confidential and shall not be open to public inspection (other than to public employees in the performance of their official duties), but representatives of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant.

See also [RCW 51.16.070\(2\)](#) which protects information in an employer's records for assessment and collection of premiums.

Even if that information is extracted into other records, that information does not necessarily lose its confidential status. See [Baxter v. WWU](#) (2021).

Federal Family Medical Leave Act (FMLA) Certifications

Records and documents relating to certifications, recertifications, or medical histories of employees or employees' family members, created for purposes of the Federal Family Medical Leave Act (FMLA), are confidential and shall be maintained in separate files/records from the usual personnel files. See [29 C.F.R. § 825.500\(g\)](#).

Washington State Paid Family and Medical Leave Act (PFMLA) Records

Information contained in files and records pertaining to an employee under the Washington Paid Family and Medical Leave Act (PFMLA) are confidential and not subject to disclosure, other than to public employees in the performance of their official duties, except as provided in [chapter 50A.25 RCW](#)—which sets out the limited circumstances when the otherwise private and confidential information can be made available to other parties. See [RCW 50A.05.020\(4\)](#).

Employment Security Department Records

[RCW 42.56.410](#) exempts from disclosure records originally created by the Employment Security Department (ESD) and subject to [chapter 50.13 RCW](#) (Unemployment Compensation) that have been provided to another organization (including public employers) for operational purposes. [RCW 50.13.110\(2\)](#) specifically prohibits the disclosure of records obtained from ESD. That said, [RCW 50.13.040\(1\)](#) entitles an individual to all records and information concerning that individual originally held by ESD. If staff have taken steps to confirm the identity of the requestor is in fact the individual who is the subject of the ESD records, an agency likely does not have an obligation to assert the confidentiality in [RCW 50.13.110\(2\)](#) and could release the record to the requestor.

ESD also oversees Washington's Paid Family Medical Leave Act (PFML). Information contained in files and records pertaining to an employee under Washington's PFML is confidential and not open to public inspection, except as provided in [chapter 50A.25 RCW](#) ([RCW 50A.05.020\(4\)](#)).

PERSONAL AND FINANCIAL INFORMATION (NON-EMPLOYEE/OFFICIAL)

Personal information exemptions applicable to public agency employees, officials, and volunteers are covered in detail in the section [Public Employee Records](#) in this document. In addition, there are protections for other members of the public found within an agency's public records. Many of these are listed in [RCW 42.56.230](#) covering "personal information."

Some personal information exemptions are specific to categories of individuals (e.g., students, public health/institution patients, children and family members in childcare or program settings, utility customers) while others are more broadly applicable (e.g., financial information of any individual). Below are some of the specific exemptions that may be relevant to local government agencies. Review [RCW 42.56.230](#) for a full list of personal information exemptions.

Student Information

Personal information in files maintained for students in public schools is exempt ([RCW 42.56.230\(1\)](#)). Outside of those files, personal information of current and former students in any records pertaining to the student, *including correspondence*, is exempt ([RCW 42.56.230\(2\)\(a\)\(iii\)](#)). The federal [Family Educational Rights and Privacy Act](#) (FERPA) will also control the release of student information.

Child Information

Personal information of children enrolled in licensed childcare facilities in files maintained by the Department of Children Youth and Families and by any other public or nonprofit program serving or applying to children or students, including parks and recreation and after-school programs, is exempt. For family members or guardians of these children, their personal information is exempt if they have the same last name as the child or if they live at the same address and the disclosure would reveal otherwise exempt personal information of the child. Emergency contact information may be produced in emergency situations ([RCW 42.56.230\(2\)](#)).

Taxpayer Information

The PRA exempts taxpayer information required of any taxpayer in connection with the assessment or collection of taxes when prohibited by certain listed statutes, or where disclosure would violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer ([RCW 42.56.230\(4\)](#)).

Regarding the specific statutes listed in the exemption at [RCW 42.56.230\(4\)](#), [RCW 82.32.330](#) is probably the most common statute relied upon to withhold tax records. That statute provides that tax returns and other tax information about a specific or identifiable taxpayer are confidential and may not be disclosed, subject to specific exceptions. [RCW 35.102.145](#) is also listed which provides that "a city that imposes a business and occupation tax may by ordinance provide that return or tax information is confidential, privileged, and subject to disclosure in the manner provided by [RCW 82.32.330](#)." At [RCW 42.56.210\(1\)](#), the PRA provides that taxpayer information exempt under the listed statutes is not subject to redaction, but instead the record can be withheld in its entirety.

Taxpayer information is also exempt if disclosure would violate the taxpayer's right to privacy or cause unfair competitive disadvantage. Applying the two-step privacy test, Washington courts have interpreted this provision in a handful of decisions. In [Van Buren v. Miller](#) (1979), the court determined that certain information relied upon by the assessor to make valuation is not private (e.g., the names of agricultural lessors and lessees) and that percentage crop sharing information is not the equivalent to income information. See also [Hearst Corp. v. Hoppe](#) (1978), where information in valuation folios did not include highly private information like "any

income data on any property, depreciation figures on commercial property, site plans which show floor plans of any structure, data unrelated to value or assessment, information pertaining to access to any premises or to security measures or devices on any premises.”

In [Hoppe v. King County](#) (2011), the court held that disclosure of proprietary business information of a corporate taxpayer *would* result in unfair competitive disadvantage to a taxpayer. The court also held that redaction was not possible to prevent unfair competitive disadvantage, and that the records could be withheld in their entirety.



Note: [RCW 84.40.020](#) provides that, except for confidential income data, property tax assessments and all supporting documents are specifically open to public inspection during the regular office hours of the county assessor’s office.

Financial Information

Under [RCW 42.56.230](#)(5), the following financial information is considered “personal information” and exempt from disclosure:

- Credit card numbers,
- Debit card numbers,
- Electronic check numbers,
- Credit or debit card expiration dates,
- Bank, and other financial information as defined in [RCW 9.35.005](#) including social security numbers, except when disclosure is expressly required by or governed by other law. The definition of “financial information” in [RCW 9.35.005](#) includes account numbers and balances, transaction information, codes, passwords, driver’s license numbers, and other information held for account access or transaction initiation.



Note: MRSC has been asked whether [RCW 42.56.230](#)(5) can be used to withhold public agency bank account and other sensitive financial information. It’s not clear that an agency’s information can be considered “personal information” such that this exemption would apply. However, if the disclosure of the information would allow improper access to public accounts, the security exemption in [RCW 42.56.420](#) may apply.

Utility Customer Information

Under the PRA, much of the customer information contained in utility account records is exempt from disclosure. Specifically, [RCW 42.56.330](#)(2) exempts:

The addresses, telephone numbers, electronic contact information, and customer-specific utility usage and billing information in increments less than a billing cycle of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

Notably, this exemption does not apply to the names and account numbers of utility customers, the amount owed by a utility customer, their associated billing/usage information for *entire* billing cycles, and whether their account is delinquent.

What if the request is from law enforcement?

Under [RCW 42.56.335](#), if police are seeking to obtain evidence of criminal conduct from records of electrical use, they must provide the utility with a written statement indicating that they suspect a specific person of a crime, and that the records could help to determine whether this suspicion is justified. No fishing expeditions are allowed ([State v. Cole](#) (1995)).

For example, in a state supreme court case, the court held that a private individual may request and obtain a copy of the electric bill for a specific residence, but a police officer seeking evidence of a marijuana-growing operation can only obtain that same record if they first provide a written statement concerning their reasonable belief that the information is relevant to the investigation of a possible crime ([Matter of Maxfield](#) (1997)).



Practice Tip: When responding to a request related to utility customer information, keep in mind the commercial purposes prohibition related to lists of individuals at [RCW 42.56.070\(8\)](#). See more on how to investigate whether a requestor may be seeking records for commercial purposes at [List of Individuals for Commercial Purposes](#).

Library Records

[RCW 42.56.310](#) protects from disclosure library records that are kept to track use of libraries and their resources that identify or could be used to identify a library user.

Religious Affiliation

[RCW 42.56.235](#) exempts all records that relate to or contain personally identifying information about an individual's religious beliefs, practices, or affiliation.



Practice Tip: While the wording of the exemption implies an entire record is exempt, the practice is to only redact the religious affiliation information.

Health Care Information When Public Agency is Health Care Provider

Most local government agencies are not health care providers as defined in the Health Care Information Act (HCIA), [chapter 70.02 RCW](#). The exception is public hospital districts organized under [chapter 70.44 RCW](#), and potentially some public health districts/departments when offering patient services or emergency medical services (EMS). These specialized agencies or departments will generally be familiar with their responsibilities related to health care information and patient records.

The PRA exemption related to health care at [RCW 42.56.360\(2\)](#) provides that “[chapter 70.02 RCW](#) applies to public inspection and copying of health care information of patients.”

[RCW 70.02.020](#) controls when a health care provider can disclose health care information about a patient to any other person without the patient's written authorization. Health care information is defined as information that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care ([RCW 70.02.010](#)(17)). Courts have interpreted [RCW 42.56.360](#)(2) to mean that "health care information" is exempt under the PRA. See [Doe G v. Dept. Of Corrections](#) (2018). Importantly, the exemption does not apply if the record was created for purposes other than providing health care.

There is also the federal [Health Information Portability and Accountability Act](#) (HIPAA) which establishes similar protections for patient records and standards for health care providers regarding health information.

One important consideration for public agencies who are health care providers is that if health care information can be de-identified (i.e., the patient's name and any identifying information removed), then the record can be released. [RCW 70.02.010](#)(6) defines "deidentified" as health information that "does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual."

The HIPAA de-identification standard in [45 C.F.R. § 164.514](#) is:

Health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual is not individually identifiable health information [...]

The regulation sets forth 18 types of identifiers. As a practical matter, de-identification of health care information/records is only appropriate when a request is not seeking a specific person's or patient's records. This means that requests for records of specific persons or patients, de-identification would not be sufficient to protect patient privacy. Instead, the entire record should be withheld.

Here are some additional resources for those agencies who are health care providers under the HCIA:

- [Washington State Attorney General's Office: Open Government Resource Manual at Chapter 2.2F](#)
- [Washington State Healthcare Authority: Washington Confidentiality Toolkit for Providers](#) (2025) – The sections on allowed disclosures are particularly helpful.
- Washington State Hospital Association:
 - [Hospital and Law Enforcement Guide to Health Care Related Disclosure](#) (2023)
 - [Washington Health Law Manual: Chapter 1 – Healthcare Information and Confidentiality](#) (2016)

Health Related Information of Private Individuals

Public agencies who are not health care providers under [chapter 70.02 RCW](#) may still end up in possession of health-related information of private individuals in various circumstances. Three common circumstances would be related to law enforcement (e.g., emergency response and criminal investigations), 911 dispatch services, and ADA accessibility/accommodation requests from the public. Note that this is not an exhaustive list and there are many ways health-related information might come into an agency's possession.

Law Enforcement

Medical and health-related records and information in possession of law enforcement are covered in MRSC's [Disclosure of Medical and Postmortem Law Enforcement Records](#) (part of MRSC's [Law Enforcement Records Tool Kit](#)), as well as Washington State Hospital Association's [Hospital and Law Enforcement Guide to Health](#)

[Care Related Disclosure](#) (2023). In particular, [RCW 42.56.240](#)(1) related to investigatory records may apply to protect a person's privacy.

911 Dispatch

Health-related information collected by a 911 dispatch or call center would likely not be protected “health care information” under [chapter 70.02 RCW](#) and [RCW 42.56.360](#)(2), although there is not yet a court decision interpreting the provision in that context. Information given to a 911 dispatch during a call for emergency services does not fall within the definition of “health care information” at [RCW 70.02.010](#)(17), unless one were to argue that because dispatch is passing the information along to medical providers, it “directly relates to the patient’s health care.”

There may nonetheless be privacy protections for what might be considered “unpleasant or disgraceful or humiliating” medical information – under either constitutional privacy protections or [RCW 42.56.240](#)(1) privacy related to law enforcement. Health-related conditions likely to be protected under a privacy analysis include social “stigma” medical conditions such as AIDS, Hepatitis, MRSA, STIs, Leprosy, and certain mental health conditions.

However, [RCW 42.56.240](#)(1) applies only to certain types of investigative agencies—in particular law enforcement. There are no court decisions on whether an independent 911 dispatch agency/call center is considered “law enforcement” for purposes of applying this exemption. We recommend consulting with the agency’s attorney to discuss options in the context of 911 dispatch.

ADA Public Accommodation Requests

Unlike Title III which applies to employee records, [Title II of the Americans with Disabilities Act](#) (ADA), which applies to state and local government provision of public services, does not have specific confidentiality requirements for disability accommodations. Further, there does not appear to be PRA privacy exemption that might apply to this information. For this reason, agencies should not require a person who is requesting an accommodation to disclose the exact nature of their disability or diagnosis, but rather ask what work or task would be served by the accommodation. Title II would apply in situations where a member of the public requests accommodations for a sight or hearing impairment at a public meeting, for example.

GENERAL GOVERNMENT OPERATIONS

In creating the exemptions listed in the PRA, the legislature has attempted to balance the need for public transparency versus protecting the confidentiality and privacy of certain information and governmental interests. In keeping with this, some exemptions and prohibitions protect certain categories of information/records the disclosure of which could negatively impact the functions and purpose of the public agency. Below are some of the more commonly used exemptions that serve this purpose.

Drafts or “Deliberative Process” Exemption

Preliminary drafts, notes, recommendations, and intra-agency memorandums expressing opinions or formulating policies are exempt under [RCW 42.56.280](#). The purpose of the exemption, named the “deliberative process” exemption by the courts, is “to safeguard the free exchange of ideas, recommendations, and opinions *prior to decision*” ([Hearst Corp. v. Hoppe](#) (1978)), “to protect the ‘give and take’ of deliberations that are necessary to agency decision-making and to formulate agency policy” ([ACLU v. City of Seattle](#) (2004)).

This is how the Washington Supreme Court in [PAWS v. Univ. of Washington](#) (1994) has described the test to determine whether a record is covered by this exemption:

In order to rely on this exemption, an agency must show that the records contain predecisional opinions or recommendations of subordinates expressed as part of a deliberative process; that disclosure would be injurious to the deliberative or consultative function of the process; that disclosure would inhibit the flow of recommendations, observations, and opinions; and finally, that the materials covered by the exemption reflect policy recommendations and opinions and not raw factual data on which a decision is based.

Importantly, the exemption no longer applies once an agency makes a final decision on the proposed issue/policy. In the context of labor negotiations, the Washington Supreme Court in [Citizen Action Defense Fund v. Washington State Office of Financial Management](#) (2025) held that for a collective bargaining agreement (CBA) between the state and bargaining units representing state employees, the deliberative process exemption in [RCW 42.56.280](#) does not expire until funding for the CBA has been approved by the state legislature—consistent with the statutory scheme for approving a CBA by the state. It distinguished the holding in [West v. Port of Olympia](#) (2008) where the court held that the exemption applied only until the results of the policy-making process were presented to the port commission for adoption. In *West*, all the decisions were to be made by the port commission, whereas in the *Citizen Action* case, the approval process was divided between the governor’s office and the legislature. The statutory scheme for CBA approval determined when implementation occurred such that the deliberative process exemption would no longer apply. The court considered the purpose of the exemption, which was to protect the policy-making process all the way through to implementation of the policy.

Here are five issues to keep in mind when applying the exemption:

1. Matters that are factual are not covered by the exemption, so redaction rather than complete exemption of the record might be required ([Brouillet v. Cowles Publishing Co.](#) (1990)).
2. The exemption is not limited to intra-agency documents prepared by a government agency; it can apply to documents prepared by persons from outside the governmental agency ([ACLU v. City of Seattle](#) (2004)).
3. Documents concerning the implementation of policy are not covered by the exemption ([Cowles Publ’g Co. v. City of Spokane](#) (1993)).
4. The exemption does not apply once the policies or recommendations contained in the records are implemented ([Brouillet v. Cowles Publishing Co.](#) (1990) and [Cowles Publishing Co. v. Spokane](#) (1993)).
5. If the document is publicly cited in connection with an agency action, the exemption no longer applies ([Overlake Fund v. City of Bellevue](#) (1991)).

For more, see MRSC’s FAQ, [Are draft documents exempt from disclosure?](#)

Attorney Work Product and Attorney-Client Privilege

An attorney’s work product is exempt under [RCW 42.56.290](#) and attorney-client privileged communications are exempt under [RCW 5.60.060](#)(2)(a) (considered an “other statute” that exempts or prohibits disclosure ([RCW 42.56.070](#)(1))).

Agencies will need to consult with their attorneys to determine whether the work product or attorney-client communications privilege applies to specific records. A local government may not assert the work product or attorney-client privilege simply because an attorney created a record or was included in a communication. The communication or record must meet the legal definition of work product or attorney-client privileged communication – and that privilege must not have been waived. For more detailed information, see the

The attorney work product and attorney-client privilege are covered in more detail below.



Practice Tip: Keep an eye out for attorney work product and attorney-client communication in comments and drafts of agency documents that reflect attorney review.

Attorney Work Product

An attorney's "work product" is exempt under [RCW 42.56.290](#). If an agency is a party to a controversy, the agency may withhold records that normally would be privileged under litigation discovery rules (i.e., materials protected from discovery pursuant to [CR 26](#)). A "controversy" covered by this exemption includes threatened, actual, or completed litigation ([Dawson v. Daly](#) (1993)).

A record is considered work product if an attorney prepares it in confidence and in anticipation of litigation, or if it is prepared by another individual at the attorney's request. In [Soter v. Cowles Publishing](#) (2007), a newspaper sought records generated by a private investigator hired by a school district's attorney. The court held that the records were properly withheld as work product, even though prepared by someone other than the attorney.

The fact that a document has a litigation and a nonlitigation purpose (i.e., a dual-purpose document) does not mean it fails to qualify for work product protection. In [Denney v. City of Richland](#) (2022), the court held that workplace investigation reports prepared for the purpose of investigating an employee's discrimination, harassment, and retaliation complaints were protected as "work product," even though they were also prepared pursuant to city policy. The court applied a two-part test to determine if the document qualified as work product, i.e., whether the document in question was really created in anticipation of litigation. One first asks whether the individual who prepared or ordered preparation of the document subjectively did so with the intent of preparing for litigation. If yes, then the question is whether the subjective anticipation of litigation was objectively reasonable.

Generally, attorney billing statements as a whole are not protected by the "work product" exemption. However, some attorneys provide detailed billing statements that may include entries that show an attorney's "work product" or litigation strategy. Only those portions of the billing statement that meet the work product or controversy standard can be redacted.

The legislature adopted an "intent" statute providing guidance on billing statements sent to public agencies by their legal counsel, whether in-house or not. [RCW 42.56.904](#) provides:

It is the intent of the legislature to clarify that no reasonable construction of [chapter 42.56 RCW](#) has ever allowed attorney invoices to be withheld in their entirety by any public entity in a request for documents under that chapter. It is further the intent of the legislature that specific descriptions of work performed be redacted only if they would reveal an attorney's mental impressions, actual legal advice, theories, or opinions, or are otherwise exempt under chapter 391, Laws of 2007 or other laws, with the burden upon the public entity to justify each redaction and narrowly construe any exception to full disclosure. The legislature intends to clarify that the public's interest in open, accountable government includes an accounting of any expenditure of public resources, including through liability insurance, upon private legal counsel or private consultants.

In [San Juan County v. Washington Coalition for Open Government](#) (2023), the court held that the county properly redacted the detailed descriptions within the attorney invoices under the controversy exemption at [RCW 42.56.290](#), consistent with the legislature’s statement of intent at [RCW 42.56.904](#).



Must a local government disclose a “separation agreement” entered into with an employee to settle a claim and avoid litigation? (The terms of the agreement were worked out by the council in an executive session, with the assistance of the local government attorney.)

The agreement must be disclosed. The relevant controversy exemption does not apply in this situation, because this document would be available to a party under the rules of pretrial discovery ([Yakima Newspapers v. Yakima](#) (1995)). However, the attorney’s comments on drafts of the agreement and legal advice on accepting the settlement agreement will be protected.

Attorney-Client Privileged Communications

Attorney-client privileged communications are exempt under [RCW 5.60.060](#)(2)(a), considered an “other statute” that exempts or prohibits disclosure under [RCW 42.56.070](#)(1). The privilege can be asserted only where the records reflect:

1. A communication;
2. Made between privileged persons (i.e., the attorney and client);
3. In confidence; and
4. For the purpose of obtaining or providing legal assistance for the client.

See [Hangartner v. City of Seattle](#) (2004).

Once a third party, such as another agency, is included in that communication, the privilege is generally considered waived. In the context of local government, this usually means that to preserve the attorney–client privilege, communications should be restricted to only the attorney(s) and relevant staff and officials within the local government.

However, one exception to the general rule is the common interest doctrine, which provides that when multiple parties share confidential communications pertaining to their common claim or defense, the communications remain privileged as to those within the group. See, e.g., [Sanders v. State](#) (2010).

The Washington State Court of Appeals held that the common interest doctrine can apply as between two or more public agencies. In [Kittitas County v. Allphin](#) (2016), the court wrote:

The common interest or joint defense privilege applies where (1) the communication was made by separate parties in the course of a matter of common interest or joint defense; (2) the communication was designed to further that effort; and (3) the privilege has not been waived. [...] A written agreement regarding the privilege is not required, but the parties must invoke the privilege: they must intend and agree to undertake a joint defense effort.

Mediation Communications

Pursuant to [RCW 42.56.600](#), communications in the context of mediation that are privileged under [chapter 7.07 RCW](#) are exempt from production. [RCW 7.07.070](#) states:

Unless subject to [chapter 42.30 RCW](#), mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this state.

[Chapter 42.30 RCW](#) is the Open Public Meetings Act (OPMA). So, records associated with portions of a mediation that might occur at an open public meeting would not be eligible for this exemption.

Once executed, a settlement agreement arising from a mediation is a disclosable public record. See [Yakima Newspapers, Inc. v. City of Yakima](#) (1995).

Security of Information, Technology, and Physical Infrastructure

[RCW 42.56.420](#) exempts records based on the impact disclosure may have on an agency's physical, technological, or information security, including as related to terrorist acts. Each of the six subsections includes specific types of information, so an agency should work closely with its legal counsel in determining whether an exemption applies in any given circumstance. The most utilized exemptions by local governments are probably subsections (1) and (4).

The general categories of records exempted under [RCW 42.56.420](#) (as summarized from the statute) include:

1. **Records assembled, prepared, or maintained to respond to criminal terrorist acts**, when release could significantly disrupt the conduct of government and are substantially likely to threaten public safety, including specific and unique vulnerability assessments or response or deployment plans, as well as the underlying data compiled in preparation of or essential the vulnerability assessments or response or deployment plans.
2. **Vulnerability assessments and emergency or escape response plans** at correctional facilities or certain secure treatment facilities, the disclosure of which would have a substantial likelihood of threatening the security of such facilities.
3. Information compiled to develop comprehensive **safe school plans**, to the extent the information identifies specific vulnerabilities of school districts or individual schools.
4. Information about the **infrastructure and security of computer and telecommunications networks** that, if released, would increase risk to their confidentiality, integrity or availability, including security passwords, security access codes and programs, access codes for secure software applications.
5. **System security and emergency preparedness plans** for transportation systems.
6. **Personally identifiable and security information of employees of private cloud service providers** which have entered into a Criminal Justice Information Systems (CJIS) agreement.

Security of Physical Infrastructure

Washington courts have applied the exemption at [RCW 42.56.420](#)(1) in a couple of cases. In [Northwest Gas Association v. Washington Utilities and Transportation Commission](#) (2007), the court of appeals interpreted [RCW 42.56.420](#)(1) to exempt detailed maps/shape files of underground pipelines from disclosure even though the data was not initially compiled to combat terrorism – it was still maintained for that purpose. More than twenty industry representatives asserted that the gas pipeline system was part of critical energy infrastructure, and that incapacity or destruction of the system would have potentially catastrophic consequences. The court

found there was potential of significant dangers to public safety if detailed data was disclosed to pranksters, saboteurs, or terrorists.

However, in [Does v. King County](#) (2015), the court of appeals rejected application of the exemption to campus surveillance footage that depicted a campus shooting and events leading up to the incident, despite the university's contention that disclosure could enable future individuals to successfully evade its surveillance security system or would encourage similar crimes. The court held that the university did not meet its burden in showing that disclosure of the video footage resulted in a "substantial likelihood of threatening public safety."



Is security footage exempt?

In most circumstances, no. Once the security camera recordings are created, they are public records, and no specific exemption applies to the recordings – including [RCW 42.56.420](#). Note that jail and corrections facilities' footage may be exempt (or should be redacted) if (1) any inmates are captured on the footage (see inmate confidentiality provisions at [RCW 70.48.100](#)); or if (2) nondisclosure is essential for effective law enforcement under [RCW 42.56.240\(1\)](#). See [Gronquist v. Department of Corrections](#) (2013) and [Fischer v. Department of Corrections](#) (2011).

Although there have been no relevant court decisions yet, it may be possible to argue that the security exemption could be applied to withhold building plans for correctional facilities, secure treatment facilities, and schools, to the extent such plans are part of vulnerability assessment and emergency plans under [RCW 42.56.420\(2\)](#) and (3). Likewise, any maps or plans that are part of transportation security or emergency preparedness plans may be exempt ([RCW 42.56.420\(5\)](#)).

Security of Computer, IT, and Telecommunications Networks

As mentioned above, [RCW 42.56.420\(4\)](#) exempts:

Information regarding the public and private infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities, and other such information the release of which may increase risk to the confidentiality, integrity, or availability of security, information technology infrastructure, or assets

There are no court decisions interpreting [RCW 42.56.420\(4\)](#); however, the plain language supports applying the exemption to a broad range of IT-related infrastructure and security information, including passwords and other information that may expose an agency to a cyberattack or security breach. Some jurisdictions rely on this exemption to redact metadata – especially of emails. Use of this exemption should be utilized only after consultation with IT professionals and the agency attorney.

Real Estate Appraisals and Other Real Estate Records

The PRA provides a time-limited exemption for real estate appraisals and certain other real estate records. Pursuant to [RCW 42.56.260](#), the following documents relating to an agency's real estate transactions are exempt from disclosure:

- Except as provided by [chapter 8.26 RCW](#) (relocation assistance), the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property

- Documents prepared for the purpose of considering the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price, including records prepared for executive session pursuant to [RCW 42.30.110\(1\)\(b\)](#) of the Open Public Meetings Act (OPMA);
- Documents prepared for the purpose of considering the minimum price of real estate that will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price, including records prepared for executive session pursuant to [RCW 42.30.110\(1\)\(c\)](#) of the OPMA.

Again, this exemption is time limited. [RCW 42.56.260\(2\)](#) provides:

The exemptions in this section do not apply when disclosure is mandated by another statute or after the project or prospective project is abandoned or all properties that are part of the project have been purchased, sold, or leased. No appraisal may be withheld for more than three years.

This exemption allows local governments to keep appraisal information away from public scrutiny while negotiating a potential purchase or sale. Relatedly, local government legislative bodies may review and discuss confidential appraisal information in an executive session pursuant to [RCW 42.30.110\(1\)\(b\)](#). Members of a governing body are prohibited from disclosing that information ([RCW 42.23.070\(4\)](#)).

In [Ekelmann v. City of Poulsbo](#) (2022), the court held that the City of Poulsbo properly exempted real estate appraisal documents and redacted sales price information with respect to property acquired for a road improvement project pursuant to [RCW 42.56.260](#), even where another statute gives property owners access to appraisal information for their property when involved in a public works project. Even though property owners were authorized access to their *own* property appraisal pursuant to state law, this did not mean that any other individual had a right to access the information under the PRA.

Financial, Commercial, and Proprietary Information (Government Owned)

[RCW 42.56.270](#) protects certain financial, commercial, and proprietary information in possession of public agencies. The purpose of the exemption is to prevent unfair private gain derived from the exploitation of potentially valuable intellectual property placed in the public domain for a public benefit ([Robbins, Geller, Rudman & Dowd v. State](#) (2014)). Most, though not all, records that would potentially fall within this exemption will be third-party (i.e., private) records in possession of the agency. For a more detailed discussion of how the financial, commercial, and proprietary information exemptions apply to third-party/private records, see the section of this document titled [Business-Related Exemptions](#) below.

[RCW 42.56.270\(1\)](#) is most often cited in the context of government records (the other subsections have limited applicability to local government records). Per the plain meaning of the statute, the exemption may be claimed by either the government or a private party. [RCW 42.56.270\(1\)](#) exempts:

Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

Several cases have interpreted this exemption in the context of government records. In one, the Washington Supreme Court found that a cash flow analysis of port properties prepared for the port's sole use in negotiations with prospective joint venture partners was within the research data exemption ([Servais v. Port of Bellingham](#) (1995)). In another case, the court found that a university's research data relating to intellectual property was exempt from disclosure ([PAWS v. University of Washington](#) (1994)). In both decisions, the

requesting parties were denied their public disclosure request, because they would have profited and the government would have incurred a loss.

By contrast, the court of appeals found that documents used by professors and accountants hired by the city, to perform credit and financial analysis for the city's loan guarantee for private shopping center development, were not exempt. The city was unable to show a public loss resulting from the disclosure of the requested research ([Spokane Research & Defense Fund v. City of Spokane](#) (1999)).

Civil Code Enforcement Investigative Records and Complainant Identities

The PRA exempts certain investigatory records from disclosure, along with certain information contained within such records. See [RCW 42.56.240](#). This is a frequently utilized exemption in the criminal law enforcement context and is covered in detail in MRSC's [Disclosure of Law Enforcement Investigative Records](#) page. This section will focus on the application of the exemption at [RCW 42.56.240](#)(1) and (2) in the context of civil code enforcement.

MRSC takes the position that civil code enforcement can be considered “law enforcement” for the purposes of [RCW 42.56.240](#)(1) and (2). This position is supported in part by footnote 2 in [Wade's Eastside Gun Shop v. L&I](#) (2016) where the court pointed out that “civil law enforcement agencies, which enforce the law and impose sanctions for illegal conduct, may benefit from the investigative records exemption.”

Investigative Records – Effective Law Enforcement and Right to Privacy

The exemption at [RCW 42.56.240](#)(1) protects specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, the nondisclosure of which is either:

- Essential to effective law enforcement; or
- For the protection of any person's right to privacy.

While this exemption can be applied in both the criminal and civil context, how this looks in practice will be different—with the application in the criminal context likely being much broader. In particular, the Washington Supreme Court has held that an active police investigation file, in its entirety, is presumed to be exempt from disclosure under the PRA's “effective law enforcement” exemption so as not to tip-off the subject of an investigation, unless the law enforcement agency decides that specific information is not essential to solving the case ([Newman v. King County](#) (1997)). This is often referred to as a “categorical” exemption for the investigation file. For more, see the section on “Open Investigations” in the [Law Enforcement Records Tool Kit](#).

However, there is not an equivalent categorical exemption in the civil enforcement context. In a case involving a state agency investigating violations of safety laws, the Washington Supreme Court found that the same risk of disclosing sensitive information in a criminal context does not exist in the civil context where the subject is almost always aware of the investigation ([Wade's Eastside Gun Shop v. Department of Labor and Industries](#) (2016)). The court found the agency could not rely on a categorical exemption under [RCW 42.56.240](#)(1) for records related to civil law enforcement activities such as safety violations. In that case, the employers knew that they were being investigated so the nondisclosure could not be claimed to be essential to effective law enforcement. See also [Brouillet v. Cowles Publishing Co](#) (1990) (revocation of teacher certificates was not exempt).

Even though there is no categorical exemption for an open civil enforcement file, specific information within the file or certain records might be subject to the exemption if an agency could make the case that nondisclosure of that information is essential for effective law enforcement.

As for the application of a person's right to privacy in civil investigation records, the same privacy analysis as for criminal investigation likely applies. In the context of code enforcement, disclosure of photographs of residential interiors or living conditions may rise to the level of being "highly offensive." For a detailed discussion of how to apply the right to privacy exemption at [RCW 42.56.240\(1\)](#), see [Disclosure of Law Enforcement Investigative Records](#), as well as the [General Note on Privacy and "Personal" Information](#) section above.

Given the lack of court cases, any application of the exemption at [RCW 42.56.240\(1\)](#) in the civil code enforcement context should be done in consultation with the agency attorney.

Records Revealing Complainant, Witness, or Victim Identity (RCW 42.56.240(2))

As stated above, [RCW 42.56.240\(2\)](#) allows agencies to redact identifying information provided to an investigative, law enforcement, or penology agency that may reveal the identity of witnesses, victims, or complainants under two circumstances:

- Where disclosure would endanger any person's life, physical safety or property; or
- If, at the time a complaint is filed, the complainant, victim, or witness indicates a desire for disclosure or nondisclosure.

The request for nondisclosure comes up frequently in the context of local government code enforcement. Often, a local government's code violation complaint form will include a place for a complainant to request anonymity/non-disclosure of their identity (e.g., by checking a box). If, at the time the complaint is submitted, a request for non-disclosure is made, an agency can redact the identity of the person making the complaint.

If such a preference is not made at the time of the complaint, the agency must "make an affirmative showing that disclosure entails a potential threat to safety or property" ([Sargent v. Seattle Police Department](#) (2013)).

Regarding redaction of identifying information where a person's life, physical safety or property would be endangered, an agency may be better off providing third-party notice under [RCW 42.56.540](#) to give that person the opportunity to seek an injunction rather than the agency asserting that exemption on someone's behalf (unless there is clear evidence of endangerment in the complaint or other records).

Archaeological Site Information

[RCW 42.56.300](#) exempts archaeological records, maps or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites. This may come up in the public works, building permit, or planning contexts.

Law Enforcement Records

There are various exemptions, prohibitions, and requirements that relate to law enforcement records. MRSC's [Law Enforcement Records Tool Kit](#) provides information and analysis about records disclosure requirements for the following types of records:

- [Investigative Records](#) – Open investigations and investigative records essential to effective law enforcement or a person's right to privacy.
- [Criminal History and Arrest Records](#) – Conviction data, non-conviction data, and rap sheets.
- [Juvenile Records](#) – Criminal and non-criminal juvenile records.
- [Medical and Postmortem Records](#)

- [Personal Identifying Information](#) – Driver’s license numbers, Social Security numbers, dates of birth, and victim or witness identity.
- [Traffic Accident and Vehicle Records](#)
- [Video Footage](#) – Includes dashcams and body cameras.
- [Exemptions and Prohibitions](#) – Addresses other common exemptions and prohibitions in law enforcement-related records: booking photos, concealed pistol license applications, confidential informants, abuse of vulnerable adults, and intelligence information.

BUSINESS-RELATED EXEMPTIONS

The following exemptions are often difficult to apply as they tend to involve facts outside of the agency’s knowledge. When dealing with these kind of records, consider providing third-party notice as discussed in the section [Optional \(aka Third-Party\) Notice to Interested Persons Regarding Disclosure](#).

Financial, Commercial, and Proprietary Information (Private Parties)

Courts have interpreted the exemptions at [RCW 42.56.270](#) (including [RCW 42.56.270\(1\)](#)) discussed above in the section Financial, Commercial, and Proprietary Information (Government Owned), as potentially applying to both agency records and non-agency records in the possession of the agency. A private party may assert the exemption, even if a public agency elects not to, by seeking a court order as discussed in the section [Injunction Challenges](#) (*Robbins, Geller, Rudman & Dowd v. State* (2014)).

Additionally, private parties are most likely to assert (or urge a public agency to assert) the exemption at [RCW 42.56.270\(11\)](#), which exempts:

Proprietary data, trade secrets, or other information that relates to: (a) A vendor’s unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services or the health care authority for purposes of the development, acquisition, or implementation of state purchased health care as defined in [RCW 41.05.011](#);

Importantly, this exemption only applies to “vendors.” It does not apply in situations where the interested party is not a “vendor” to the government. An example of when this exemption may be raised is in connection with the public bidding process. Local governments often obtain information which bidders would not voluntarily divulge to their competitors. MRSC recommends providing notice to a bidder pursuant to [RCW 42.56.540](#) if an agency thinks a private party may want to claim this exemption.

Trade Secrets: Chapter 19.108 RCW

While a vendor’s trade secrets are explicitly exempt under [RCW 42.56.270\(11\)](#), intellectual and proprietary information may also be more broadly exempt under the Washington Trade Secrets Act, [chapter 19.108 RCW](#) (*Servais v. Port of Bellingham* (1995)). This Act qualifies as an “other statute” under [RCW 42.56.070\(1\)](#) (*Progressive Animal Welfare Soc’y v. UW* (1994) (PAWS II)).

There is a sizable body of caselaw around whether certain information is considered a trade secret under the Trade Secret Act, but only a few examples of its application in the PRA context.

In one case, information submitted by a law firm in response to the request for qualifications and quotations from the Washington State Investment Board was held not to be exempt as a trade secret under [RCW](#)

[19.108.010](#)(4) because it was not shown to be unique, innovative or novel or that sufficient steps had been taken to protect the secrecy of the information ([Robbins, Geller, Rudman & Dowd, LLP v. Office of Attorney General](#) (2014)).

In another case, [Lyft, Inc. v. City of Seattle](#) (2018), there was a public records request for data reports filed by “transportation networking companies” Uber and Lyft with the City of Seattle. Uber and Lyft considered at least some of the data to be trade secrets. Specifically, the companies tried to protect “zip code reports,” which includes, among other things, the percentage and number of rides picked up in each zip code and the pick-up and drop-off zip codes for each ride.

The court said it was a “close call,” but it upheld a trial court finding that the reports did constitute trade secrets. However, the court ruled that the reports were still subject to disclosure under the Public Records Act due to the nature of the case. If a private party seeks an injunction to prevent disclosure of a record, it must show that not only does an exemption apply, but that disclosure is not in the public interest ([RCW 42.56.540](#)). In a 5-4 decision, the court found that this standard was not met and reversed the trial court’s grant of a permanent injunction.



Practice Tip: As discussed in the section on [Judicial Review](#), the threshold to obtain an injunction from a court is much higher than asserting the exemption in the first place. There may be certain situations where an agency may be willing to assert an exemption that protects a third party’s trade secrets in exchange for that party being willing to defend against any challenges against that assertion. This is a policy decision that should be made in consultation with the agency attorney.

Copyrighted Materials: 17 U.S.C. § 106

Agencies may need to consider federal copyright laws when providing copies of records that are subject to copyright protection under [17 U.S.C. § 106](#). This issue may arise where private entities have copyrighted their work, such as blueprints or architectural plans.

However, even if a person has a copyright interest in materials submitted to a public agency, disclosure is not automatically prohibited. A court has held that those requesting copies of copyrighted materials may be entitled to the records if the facts meet the “fair use doctrine” exemption to the federal Copyright Act ([Lindberg v. County of Kitsap](#) (1997)). Such a determination requires asking what purpose the requestor intends to use the copyrighted material, which seems to run counter to [RCW 42.56.080](#)(2) which prohibits agencies from inquiring why a requestor wants a certain record, except in certain circumstances. Unfortunately, the court did not resolve that issue.

Consequently, MRSC has recommended that when there is a disclosure request for these types of materials, the agency should provide third-party notice under [RCW 42.56.540](#) to the person who submitted the documents.

Appendix A: Recommended Resources

MRSC has [numerous resources](#) that can help state and local government agencies comply with the Public Records Act (PRA). For a complete list of all resources available in our website, see our [Public Records & PRA](#) page. Below is a selection of some of these resources:

- [Electronic Records Policy Tool Kit](#) – Series of webpages providing sample policy language options and guidance for the various facets of electronic records retention, management, and disclosure, including email, text, and social media.
- [Law Enforcement Records Tool Kit](#) – Series of webpages to help police and sheriff departments manage their records and comply with PRA and other statutes.
- [Public Records Act Basics](#) – PRA overview with selected examples of local PRA policies and procedures.
- [PRA Practice Tips and Checklists](#) – Helpful tips and short checklists providing practical guidance.
- [Public Records Act Court Decisions](#) – Significant state appellate court decisions concerning PRA.
- [Recent blog posts about PRA](#) – Articles written by MRSC staff and contributors about specific aspects of the PRA, including new legislation and court decisions. Articles are listed in reverse chronological order, with the most recent first.

Appendix B: Cross-Reference Guide for 2006 Recodification

The following table is provided for historical cross-reference. Since 2006, several statutes have since been renumbered, reorganized, or repealed.

Table 1: Chapter 42.17 RCW to Chapter 42.56 RCW

PDA (until 7/1/06)	PRA (after 7/1/06)	WAC Model Rules
42.17.020	42.56.010	44-14-01001
42.17.250	42.56.040	44-14-02001
42.17.251	42.56.030	44-14-01003 44-14-06002
42.17.253	42.56.580	44-14-020 44-14-02002
42.17.255	42.56.050	44-14-06002 (2)
42.17.258	42.56.060	44-14-01003 44-14-04003
42.17.260	42.56.070	44-14-03003
42.17.260 (1)	42.56.070	44-14-010 44-14-06002
42.17.260 (2)	42.56.070 (2)	44-14-010 44-14-060 44-14-06001
42.17.260 (7)	42.56.070 (7)	44-14-07001
42.17.260 (9)	42.56.070 (9)	44-14-03006 44-14-06002 (6)
42.17.270	42.56.080	44-14-01002 44-14-03006 44-14-04002 44-14-04003 44-14-04006
42.17.280	42.56.090	44-14-03002 44-14-04005
42.17.290	42.56.100	44-14-01002 44-14-04001 44-14-03004 44-14-04003 44-14-04006

PDA (until 7/1/06)	PRA (after 7/1/06)	WAC Model Rules
42.17.295	42.56.110	
42.17.300	42.56.120	44-14-04005
		44-14-070
		44-14-07001
42.17.305	42.56.130	
42.17.310	42.56.210	44-14-04004
		44-14-06002
42.17.310(1)(a)	42.56.230	
42.17.310(1)(b)	42.56.230	
42.17.310(1)(c)	42.56.230	
42.17.310(1)(d)	42.56.240	
42.17.310(1)(e)	42.56.240	
42.17.310(1)(f)	42.56.250	
42.17.310(1)(g)	42.56.250	
42.17.310(1)(h)	42.56.270	
42.17.310(1)(i)	42.56.280	44-14-06002(4)
42.17.310(1)(j)	42.56.290	44-14-06002(3)
42.17.310(1)(k)	42.56.300	
42.17.310(1)(l)	42.56.310	
42.17.310(1)(m)	42.56.270	
42.17.310(1)(n)	repealed	
42.17.310(1)(o)	42.56.270	
42.17.310(1)(p)	42.56.320	
42.17.310(1)(q)	42.56.330	
42.17.310(1)(r)	42.56.270	
42.17.310(1)(s)	repealed	
42.17.310(1)(t)	42.56.250	
42.17.310(1)(u)	42.56.250	
42.17.310(1)(v)	42.56.330	
42.17.310(1)(w)	42.56.350	
42.17.310(1)(x)	42.56.360	
42.17.310(1)(y)	42.56.360	
42.17.310(1)(z)	42.56.270	
42.17.310(1)(aa)	42.56.270	
42.17.310(1)(bb)	42.56.270	
42.17.310(1)(cc)	42.56.370	
42.17.310(1)(dd)	42.56.250	

PDA (until 7/1/06)	PRA (after 7/1/06)	WAC Model Rules
42.17.310(1)(ee)	42.56.250	
42.17.310(1)(ff)	42.56.380	
42.17.310(1)(gg)	42.56.270	
42.17.310(1)(hh)	42.56.360	
42.17.310(1)(ii)	repealed	
42.17.310(1)(jj)	42.56.270	
42.17.310(1)(kk)	42.56.390	
42.17.310(1)(ll)	42.56.330	
42.17.310(1)(mm)	42.56.330	
42.17.310(1)(nn)	42.56.330	
42.17.310(1)(oo)	42.56.360	
42.17.310(1)(pp)	42.56.400	
42.17.310(1)(qq)	42.56.320	
42.17.310(1)(rr)	42.56.240	
42.17.310(1)(ss)	42.56.230	
42.17.310(1)(tt)	42.56.270	
42.17.310(1)(uu)	42.56.410	
42.17.310(1)(vv)	42.56.320	
42.17.310(1)(ww)	42.56.420	
42.17.310(1)(xx)	42.56.430	
42.17.310(1)(yy)	42.56.430	
42.17.310(1)(zz)	42.56.430	
42.17.310(1)(aaa)	42.56.440	
42.17.310(1)(bbb)	42.56.420	
42.17.310(1)(ccc)	42.56.420	
42.17.310(1)(ddd)	42.56.420	
42.17.310(1)(eee)	42.56.400	
42.17.310(1)(fff)	42.56.270	
42.17.310(1)(ggg)	42.56.330	
42.17.310(1)(hhh)	42.56.270	
42.17.310(1)(iii)	42.56.210	
42.17.310(1)(jjj)	42.56.270	
42.17.310(1)(jjj)	42.56.380	
42.17.310(1)(kkk)	42.56.380	
42.17.311	42.56.510	
42.17.312	42.56.360	
42.17.313	42.56.450	
41.17.314	42.56.330	

PDA (until 7/1/06)	PRA (after 7/1/06)	WAC Model Rules
42.17.315	42.56.320	
42.16.316	42.56.360	
42.17.317	42.56.380	
42.17.318	42.56.240	
42.17.319	42.56.270	
42.17.31901	42.56.240	
42.17.31902	42.56.360	
42.17.31903	42.56.400	
42.17.31904	42.56.400	
42.17.31905	42.56.400	
42.17.31906	42.56.460	
42.17.31907	42.56.380	
42.17.31908	42.56.400	
42.17.31909	42.56.380	
42.17.31910	42.56.360	
42.17.31911	42.56.400	
42.17.31912	42.56.330	
42.17.31913	42.56.250	
42.17.31914	42.56.420	
42.17.31915	42.56.400	
42.17.31916	42.56.400	
42.17.31917	42.56.400	
42.17.31918	42.56.380	
42.17.31919	42.56.380	
42.17.31920	repealed	
42.17.31921	42.56.470	
42.17.31922	42.56.590	
42.17.31923	42.56.610	
42.17.320	42.56.520	44-14-04003
		44-14-08001
		44-14-08004
42.17.325	42.56.530	44-14-08002
42.17.330	42.56.540	44-14-04003
		44-14-08004(5)

PDA (until 7/1/06)	PRA (after 7/1/06)	WAC Model Rules
42.17.340	42.56.550	44-14-01003
		44-14-04001
		44-14-04003
		44-14-08004
42.17.341	42.56.560	
42.17.348	42.56.570	
New	42.56.020	
New	42.56.900	

Appendix C: Exemption and Prohibition Statutes Not Listed in Chapter 42.56 RCW

[RCW 42.56.070](#)(2) requires an agency to:

[...] publish and maintain a current list containing every law, other than those listed in the PRA, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

The following list provides exemptions and prohibition statutes not listed in the PRA.

Washington State Statutes

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.

Selected Federal Confidentiality Statutes and Rules

MRSC will periodically update this list. The date of the last update is reflected in the cover.

18 U.S.C. § 2721 - 2725	Driver and License Plate Information
18 U.S.C. § 923 (g); Public Law 112-55, div. B, title II, 125 STAT. 609	"Tiahrt Amendment" – Firearms trace data provided to local law enforcement by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
20 U.S.C. § 1232g	Family Education Rights and Privacy Act
23 U.S.C. § 407	Evidence of certain accident reports
42 U.S.C. § 290dd-2	Confidentiality of Substance Abuse Records
42 U.S.C. § 405 (c)(2)(C)(viii) (I)	Limits on Use and Disclosure of Social Security Numbers
42 U.S.C. § 654 (26)	State Plans for Child Support
42 U.S.C. § 671 (a)(8)	State Plans for Foster Care and Adoption Assistance
42 U.S.C. § 1396a (7)	State Plans for Medical Assistance
42 U.S.C. § 5106a	Grants to States for Child Abuse and Neglect Prevention and Treatment Programs
7 C.F.R. § 272.1 (c)	Food Stamp Applicants and Recipients
34 C.F.R. § 361.38	State Vocational Rehabilitation Services Programs
42 C.F.R. Part 2 (2.1 - 2.67)	Confidentiality of Alcohol and Drug Abuse Patient Records
42 C.F.R. § 431.300 - 307	Safeguarding Information on Applicants and Recipients of Medical Assistance
42 C.F.R. § 483.420	Client Protections for Intermediate Care Facilities for Individuals with Intellectual Disabilities
45 C.F.R. § 160-164	HIPAA Privacy Rule

Other Potential Federal Confidentiality Statutes and Rules. Note that these provisions have not been fully analyzed in the context of Washington’s Public Records Act.

Citation	Summary
5 U.S.C. § 552a	<i>Privacy Act of 1974</i> – Applies if a local government operates a federally funded program or receives federal records; limits use and disclosure of personal data.
26 U.S.C. § 6103	Prohibits local governments from disclosing federal tax return information unless expressly authorized.
38 U.S.C. § 7332	Applies if local governments work with VA health programs; requires consent before releasing records related to substance use, HIV, or sickle cell.
42 U.S.C. § 241(d)	<i>Certificates of Confidentiality</i> – Researchers at the local level receiving federal funds may protect identifiable research participant data from forced disclosure.
21 C.F.R. Part 21	FDA’s rules on privacy under the Privacy Act; applies if local governments work with or receive regulated medical product data.
CIPSEA (Title V, EGov Act of 2002)	Protects the confidentiality of statistical data collected under federal authority; relevant to local governments involved in federal data collection.
Cybersecurity Information Sharing Act of 2015	Requires privacy protections when local governments participate in federal cybersecurity threat-sharing activities.

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The Open Public Meetings Act

How it Applies to Washington Cities,
Counties, and Special Purpose Districts



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THE OPEN PUBLIC MEETINGS ACT

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DISCLAIMER

The content of this publication is for informational purposes only and is not intended as legal advice, nor as a substitute for the legal advice of an attorney. You should contact your own legal counsel if you have a question regarding your legal rights or any other legal issue.

MRSC MISSION

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Revision History

MRSC updates this publication as needed to reflect new legislation and other changes. Below is a summary of significant recent changes. If you are aware of any other sections that you think need to be updated or clarified, please contact mrsc@mrsc.org. To make sure you have the most recent version, please go to mrsc.org/publications.

DATE	SUMMARY
July 2024	Procedural Requirements: • Public Comment: Added new public comment notice requirement (RCW 42.30.250).
June 2023	Updated publication to reflect legislative changes to the OPMA current through the 2023 legislative session and up-to-date case law.

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Introduction

In 1971, the state legislature enacted the Open Public Meetings Act (OPMA) to make the conduct of government more accessible and open to the public. The OPMA begins with a strongly worded statement of purpose ([RCW 42.30.010](#)):

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed and informing the people's public servants of their views so that they may retain control over the instruments they have created. For these reasons, even when not required by law, public agencies are encouraged to incorporate and accept public comment during their decision-making process.

This publication comprehensively reviews the OPMA as it applies to Washington cities, towns, counties, and special purpose districts. It also provides answers to selected questions that have been asked of MRSC staff concerning the application of the OPMA. However, we find that new questions constantly arise concerning the OPMA. So, if you have questions that are not addressed by this publication, do not hesitate to contact your legal counsel or MRSC legal staff.

Applicability

Codified in [chapter 42.30 RCW](#), the OPMA applies to all city and town councils,¹ to all county councils and boards of county commissioners, and to the governing bodies of special purpose districts, as well as to many subordinate city, county, and special purpose district commissions, boards, and committees. It requires that all “meetings” of such bodies be open to the public and that all “action” taken by such bodies be done at meetings that are open to the public. The terms “meetings” and “action” are defined broadly in the OPMA and, consequently, the OPMA can have daily significance for cities, counties, and special purpose districts even when no formal meetings are being conducted.

IN GENERAL

The basic mandate of the Open Public Meetings Act in [RCW 42.30.030](#) is as follows:

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

The OPMA applies to “meetings” of a “governing body” of a “public agency.” In [RCW 42.30.020](#) a “public agency” is defined as including a city, county, and special purpose district and a “governing body” is defined as follows:

“Governing body” means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

The legislative bodies of cities and counties² clearly are governing bodies under this definition, as are the boards or commissions that govern special purpose districts. However, they are not the only bodies to which the OPMA applies. The OPMA also applies to any “subagency” of a city, county, or special purpose district,³ because the definition of “public agency,” per [RCW 42.30.020\(1\)\(c\)](#), includes:

Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies.

Under this definition, the subagency must be created by some legislative act of the legislative body, such as an ordinance or resolution. A group established by a mayor to advise the mayor on a particular issue could not, for example, be a subagency, because a mayor does not act legislatively. However, a legislative act alone does not create a subagency. According to the Washington State Attorney General's Office (AGO), a board or a commission or other body is not a subagency governed by the OPMA unless it actually possesses some aspect of policy or rulemaking authority. As explained by the AGO, “its “advice,” while not binding upon the agency with which it relates [...], must nevertheless be legally a necessary antecedent to that agency's action.” See [AGO 1971 No. 33](#)⁴.

1 For convenience, the term “city council” will in this publication also refer to town councils and to city commissions under the commission form of government.

2 The legislative bodies of cities are the city councils or city commissions, and the legislative bodies of counties are the boards of county commissioners or county councils.

3 Most special purpose district governing bodies do not have the authority to create such subagencies.

4 The Attorney General's Office bases its conclusion on this issue on the language “or other policy or rulemaking body of a public agency” in the definition of “governing body” in [RCW 42.30.020\(2\)](#). See also [AGLO 1972 No. 48](#).



Certain advisory boards are not subject to the OPMA: If a board or commission (or whatever it may be termed) established by legislative action is merely advisory and its advice is not necessary for the city, county, or district to act, the OPMA generally does not apply to it. However, the governing body can always choose to make the advisory boards that it creates subject to the OPMA, even if that board would not otherwise be subject to the OPMA.

GOVERNING BODIES AND SUBAGENCIES

Given the definition of “governing body” and “subagency”, the following are governing bodies within city and county government that are subject to the OPMA:

- City council or commission
- County council or board of commissioners
- Planning commission
- Civil service commission
- Board of adjustment
- Lodging Tax Advisory Committee

Other boards or commissions will need to be evaluated individually to determine whether the OPMA applies to them. For example, the definition of a subagency identifies library boards, but, in some cities (particularly those without their own libraries), library boards function as purely advisory bodies, without any policymaking or rulemaking authority. That type of library board would not be subject to the OPMA. In cities where library boards function under statutory authority and possess policymaking and rulemaking authority, those boards must follow the requirements of the OPMA ([RCW 27.12.210](#)).

Most special purpose districts have only one “governing body” under the meaning of that term in the OPMA.

Committees subject to the OPMA

The OPMA also applies to a committee created by a governing body in the following circumstances:

- When it acts on behalf of the governing body⁵
- When it conducts hearings, or
- When it takes testimony or public comment.

⁵ In a 2015 decision, the State Supreme Court adopted the reasoning of [AGO 1986 No. 16](#) in concluding that a committee acts on behalf of the governing body “when it exercises actual or de facto decision-making authority.” See [Citizens Alliance v. San Juan County](#) (2015). A committee when it is exercising actual or de facto decision-making authority should be distinguished from the situation where a committee simply provides advice or information to the governing body and is not subject to the OPMA. See [Citizens Alliance v. San Juan County](#) (2015).

When a committee is not doing any of those things, it is not subject to the OPMA.⁶

Keep in mind that it is usually good public policy to open the meetings of local government boards, commissions, and committees to the public, even if it is uncertain or doubtful that the OPMA applies to them. This approach would be consistent with the OPMA's focus on transparency and its basic intent that the actions of governmental bodies "be taken openly and that their deliberations be conducted openly" ([RCW 42.30.010](#)).

SELECTED QUESTIONS ON APPLICABILITY

Below are additional questions and answers addressing the topic of OPMA applicability. For more questions and answers about the OPMA, see MRSC's page on [Open Public Meetings Act FAQs](#).

May four councilmembers-elect of a seven-member council meet before taking their oaths of office without procedurally complying with the OPMA?

Yes. Councilmembers-elect are not yet members of the governing body and cannot take "action" within the meaning of the OPMA, and so they are not subject to the OPMA. See [Wood v. Battle Ground School Dist.](#) (2001).

Must a committee of the governing body be composed solely of members of the governing body for it to be subject to the OPMA under the circumstances identified in RCW 42.30.020(2)?

No. [RCW 42.30.020](#)(2) defines a "governing body" to include a "committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." The State Supreme Court has held that a "committee thereof," an entity created or specifically authorized by the governing body, may include or consist of individuals who are not members of the governing body. See [Citizens Alliance v. San Juan County](#) (2015).

If a committee of a governing body is subject to the OPMA and it forms a subcommittee, is that subcommittee also subject to the OPMA?

If the subcommittee consists of a quorum of committee members, then it is subject to the OPMA. If the subcommittee consists of less than a quorum of committee members, then it is subject to the OPMA if it performs any of the following functions:

- It acts on behalf of the committee (i.e., it is exercising actual or de facto decision-making authority);
- It conducts hearings; or
- It takes testimony or public comment.

⁶ While the definition of "governing body" speaks of "when" a committee acts so as to come within that definition, the courts have not been clear about whether a committee is subject to the OPMA for all of its meetings when it is only at some that it is acting in that manner. See [Clark v. City of Lakewood](#) (9th Cir. 2001).

Does the OPMA apply to meetings of department directors or other staff? Does the answer change if the public is invited to attend these meetings?

The OPMA does not apply to meetings of department directors or staff meetings because those are not meetings of the “governing body” to which the OPMA applies. The meeting is still not subject to the OPMA even if the public is invited to attend. If a quorum of the council or commission attends the department director or staff meeting, whether the meeting is subject to the OPMA depends on the participation of the council or commission members. Passive receipt of information by a quorum of the governing body does not violate the OPMA, so mere attendance is allowed by the OPMA. However, for transparency reasons and to avoid any liability under the OPMA, MRSC recommends noticing all meetings at which a quorum of the council or commission attends.

What Is a “Meeting”?

IN GENERAL

There must be a “meeting” of a governing body for the OPMA to apply. Sometimes it is very clear that a “meeting” must be open to the public, but other times it isn’t. To determine whether a governing body is having a “meeting” that must be open, it is necessary to look at the OPMA’s definitions. [RCW 42.30.020\(4\)](#) defines “meeting” as follows: “‘Meeting’ means meetings at which action is taken.” “Action,” as referred to in that definition of “meeting,” is defined in [RCW 42.30.020\(3\)](#) as follows:

“Action” means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. “Final action” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

Since a governing body can only transact business when a quorum (majority) of its members are present (e.g., [RCW 35A.12.120](#), [35.23.270](#), [35.27.280](#), [36.32.010](#)), it is conducting a meeting subject to the requirements of the Open Public Meetings Act whenever a majority of its members gathers with the collective intent of transacting the governing body’s business ([Citizens Alliance v. San Juan County](#) (2015)). This includes simply discussing any matter having to do with agency business. Because members of a governing body may discuss the business of that body by telephone and other electronic means (including email, text message, social media or chat), it is not necessary that the members be in the physical presence of each other for there to be a meeting subject to the OPMA ([Wood v. Battle Ground School Dist.](#) (2001)). Also, it is not necessary that a governing body take “final action” for a meeting subject to the OPMA to occur. See [RCW 42.30.020\(3\)](#).

Note that it does not matter if the meeting is called a “workshop,” a “study session,” or a “retreat”; it is still a meeting subject to the Open Public Meetings Act if a quorum is addressing the business of the city, county, or special purpose district. If a quorum of the governing body just meets socially or travels together, it is not having a meeting subject to the OPMA as long as the members do not discuss agency business or otherwise take “action.” See [RCW 42.30.070](#), [In re Recall of Roberts](#) (1990).

SERIAL MEETINGS

Members of a governing body must avoid communicating with each other in a way that eventually turns into a majority of the body collectively taking action, even if the majority is never part of any one communication or are not in the physical presence of one another ([Citizens Alliance v. San Juan County](#) (2015), [Wood v. Battle Ground School Dist.](#) (2001), [Egan v. City of Seattle](#) (2020)). This can happen if the members discuss city, county, or district business together in a series of in-person meetings, phone calls, emails, and other electronic means (including text messages, chat, social media posts and comments, and shared documents). These types of meetings are referred to as “serial” or “rolling” meetings and violate the OPMA when they involve a majority of members having the collective intent to take action. They are a violation because the public could not, as a practical matter, attend these “serial” or “rolling” meetings.

Washington’s Supreme Court has said that, for a serial meeting to occur in violation of the OPMA, there must be a “collective intent to take action.” In discussing collective intent, the Court said that in-person meetings, emails, phone calls, and text messages between and among the city councilmembers could constitute a “meeting” under the OPMA if there was evidence that at least five members (a majority of the nine-member city council) participated in and were aware that four others were participating in conversations about repealing the head tax. See [Egan v. City of Seattle](#) (2020).

It is not an illegal serial meeting if one member communicates with the other members merely for the purpose of providing relevant information to them. For example, one member can email the other members about an agency issue, so long as the other members only “passively receive” the information and no email or other type of discussion regarding that information takes place ([Egan v. City of Seattle](#) (2020)). MRSC recommends using the “blind carbon” function in these types of emails which prevents a recipient from replying to all the other recipients. MRSC also recommends having agency staff distribute materials to members of the governing body; this can also help avoid situations where OPMA violations may occur.

HYBRID AND REMOTE MEETINGS

Local governments are encouraged under [RCW 42.30.030](#) to hold meetings of the governing body as hybrid meetings, where the physical location of the meeting is coupled with a remote access option, but this is not a requirement. A local government can choose to offer its meetings at a physical location or as a hybrid meeting, but it cannot choose to offer a remote-only meeting unless certain circumstances apply. Fully remote meetings with no physical location are permitted under the OPMA only if a local, state, or federal emergency has been declared and the public agency determines it cannot hold an in-person meeting.⁷ See [RCW 42.30.230](#).

While the public must be provided the option to attend meetings of the governing body at a physical location (absent an emergency declaration), the OPMA specifically permits members of the governing body to attend their meetings by phone or other electronic means that allow for real-time verbal communication. See [RCW 42.30.230](#)(5). However, some local governments have adopted local policies placing rules on remote attendance by members of the governing body, such as allowing members to remotely attend only three meetings per year or only in special circumstances (e.g., traveling out-of-town, illness).

SELECTED QUESTIONS ON MEETINGS UNDER THE OPMA

Below are additional questions and answers addressing the topic of meetings under the OPMA. For more questions and answers about the OPMA, see MRSC’s page on [Open Public Meetings Act FAQs](#).

May a quorum of a city or county legislative body attend, as members of the audience: (1) a citizens’ group meeting; or (2) an advisory board or other committee meeting?

Yes, a quorum of the legislative body may attend a citizen’s group meeting or an advisory board/committee meeting without that meeting being subject to the OPMA so long as the members attending the meeting do not

⁷ The OPMA provides an additional exception to the physical meeting location requirement, but this exception does not apply to local governments. The OPMA allows those governing bodies that held some of their regular meetings remotely prior to March 1, 2020, to continue to hold fully remote meetings with no declared emergency so long as the public may also attend remotely.

discuss, as a group, agency business or otherwise take “action” within the meaning of the OPMA ([AGO 2006 No. 6](#)). That possibility could in most circumstances be avoided by not sitting as a group and not engaging with each other in any way during the meeting.

If the legislative body will be expected to participate in the citizens’ group meeting, then either a quorum should not attend, or the meeting should be noticed as a special meeting of the legislative body. Given the nature of the advisory board and committee meetings, the agency may want to notice the meeting as a special meeting of the legislative body to avoid any risk of the members taking action that would violate the OPMA. Further, some agencies may have local rules addressing legislative body attendance at such meetings and may choose to limit attendance or participation for various reasons, including avoiding any undue influence that may occur from the presence or participation by members of the legislative or potential complications with the appearance of fairness doctrine.

May an entire county council attend a private dinner in honor of the out-going county official without complying with the Open Public Meetings Act?

This issue comes down to whether the council will be dealing with county business. It can be argued that honoring the county official is itself county business. On the other hand, it could be argued that honoring an individual who is leaving county employment does not involve the functioning of the county. Additionally, the OPMA provides that there is no violation if “a majority of the members of a governing body [...] gather for purposes other than a regular meeting or a special meeting” (and do not take action at the gathering) ([RCW 42.30.070](#)). Even so, this is a gray area where caution should be exercised.

Must the public be allowed to attend the annual city council retreat?

Yes. A retreat attended by a quorum of the council where issues of city business are addressed constitutes a meeting subject to the OPMA.

May all members of the governing body remotely attend their own meeting?

Yes. The OPMA allows all members of the governing body to remotely attend their own meeting. Remote attendance can be by phone or other electronic means and must allow for real-time verbal communication. Local policies may place restrictions or additional rules on remote meeting attendance by members of the governing body.

Exemptions

[RCW 42.30.140](#) sets out four situations where a governing body may meet and not be subject to any requirements of the Open Public Meetings Act. That statute provides that the OPMA does not apply to:

1. “The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary.”

This provision, for the most part, has little, if any, application to any city, county, or special district governing body. One type of proceeding where it has been used is where a city provides for a hearing before revoking a business license. See [Cohen v. Everett City Council](#) (1975).

2. “That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group;”

This exception applies when a governing body is acting in a quasi-judicial capacity. Typically, a city or county governing body is acting in a quasi-judicial capacity in certain land use actions such as site-specific rezones, conditional use applications, variances, and preliminary plat applications. Other examples include the civil service commission when it is considering an appeal of a disciplinary decision and the LEOFF disability board when it is considering an application for disability benefits.

However, where a public hearing is required for a quasi-judicial matter, only the deliberations by the body considering the matter can be in closed session.

3. “Matters governed by [chapter 34.05 RCW](#), the Administrative Procedures Act;”

This exception has no application to cities, counties, or special purpose districts, but it has been held to apply to removal hearings for elected state conservation district supervisors (who may be removed from office by the state conservation commission upon notice and hearing pursuant to [RCW 89.08.200](#)). See [Johnson v. Washington State Conservation Commission](#) (2021).

4. “(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.”

The language of this exception is basically self-explanatory.⁸ However, the term “professional negotiations” must be interpreted in the context of collective bargaining; it should not be interpreted to apply generally to negotiations for professional services.

SELECTED QUESTIONS ON EXEMPTIONS

Below are additional questions and answers addressing the topic of exemptions to the OPMA. For more questions and answers about the OPMA, see MRSC’s page on [Open Public Meeting Act FAQs](#).

Does the OPMA require that a civil service commission hearing regarding a police officer’s appeal of disciplinary action be open to the public?

Such a hearing would fall under the exception from the OPMA in [RCW 42.30.140](#)(2) for quasi-judicial matters. However, since [RCW 41.12.090](#) requires that such a hearing be public, the OPMA’s exemption does not apply. The commission may nevertheless deliberate in private.

Must a local government give any notice under the OPMA when the governing body is meeting to discuss the strategy to be taken during collective bargaining with an employee union?

No. Under [RCW 42.30.140](#)(4), this meeting is exempt from the OPMA. The council or commission may therefore meet without notifying anyone. Of course, each member of the governing body must be notified.

Can a local government unilaterally require that collective bargaining negotiations occur at an open public meeting?

No. The Washington Supreme Court held that a city ordinance requiring that all collective bargaining between city and union representatives occur at an open public meeting was preempted by state law and unconstitutional under article XI, section 11 of the Washington State Constitution. See [Washington State Council of County and City Employees v. City of Spokane](#) (2022).

⁸ City, county, and special district governing bodies should be aware that this exemption from the OPMA does not protect the public from accessing documents that are introduced at such a meeting through a Public Records Act request. See [ACLU of WA v. City of Seattle](#) (2004).

Procedural Requirements

The OPMA establishes some basic procedural requirements that apply to all meetings of a governing body, whether they are regular or special meetings. All meetings of a governing body are, under the Open Public Meetings Act, either regular or special meetings. It does not matter if it is called a “study session” or a “workshop” or a “retreat,” it is either a regular or special meeting.

TYPES OF MEETINGS

What is a regular meeting?

A regular meeting is one that is held according to a schedule adopted by ordinance, resolution, order, or rule, as may be appropriate for the governing body. See [RCW 42.30.060](#), [.070](#), [.080](#).⁹

What is a special meeting?

A special meeting is any meeting that is not a regular meeting. In other words, special meetings are not held according to a fixed schedule. Under the OPMA, special meetings have specific notice requirements, as discussed below. Also, governing bodies may be subject to specific limitations about what may be done at a special meeting.¹⁰

What is an emergency meeting?

An emergency meeting is one that is held because the governing body needs to take expedited action to meet an unexpected emergency (such as a fire, flood or earthquake). As discussed in more detail below, emergency meetings have no notice requirements. To qualify for an emergency, the situation must be one that involves, or has the likelihood to involve, injury or damage to persons or property, when time requirements of meeting notice make notice impractical and increases the likelihood of such injury or damage or when notice cannot be posted with reasonable safety. See [RCW 42.30.070](#), [.080](#), [Mead School District v. Mead Ed. Ass’n](#) (1975).

PROCEDURAL REQUIREMENTS FOR ALL MEETINGS

The following requirements and prohibitions apply to both regular and special meetings of a governing body:

- All meetings must be open to the public ([RCW 42.30.030](#)).

⁹ Also, state law, though not the OPMA, may require the governing body of a city, county, or special district to meet with a certain regularity, such as monthly. For example, second class and code city councils, town councils, and the board of directors of any school district must meet at least once a month. See [RCW 35.23.181](#), [35.27.270](#), [35A.12.110](#), [28A.343.380](#).

¹⁰ For example, second class city councils may not pass an ordinance or approve a contract or a bill for the payment of money at a special meeting ([RCW 35.23.181](#)). Town councils may not pass a resolution or order for the payment of money at a special meeting ([RCW 35.27.270](#)). Many special purpose districts are subject to requirements that certain actions can be taken only at a regular meeting, i.e., not at a special meeting. See, e.g., [RCW 54.16.100](#) (appointment and removal of public utility district manager); [RCW 85.05.410](#) (setting compensation of board of diking district commissioners). The councils of first class and code cities and county legislative bodies have no specific limitations on actions that may be taken at a special meeting, other than those imposed by the Open Public Meetings Act.

- Meetings must be held in a physical location, with remote access optional, unless a local, state or federal emergency has been declared and the agency determines it cannot hold an in-person meeting with reasonable safety because of the emergency ([RCW 42.30.230](#)).
- Minutes are required for all regular and special meetings except executive sessions (although the announced purpose of the executive session must be included in the minutes). See [RCW 42.30.035](#) and [42.30.110\(2\)](#). Minutes must be made available for public inspection but are not required to be posted online.
- A member of the public may not be required as a condition of attendance to register their name or other information, or complete a questionnaire, or be required to fulfill any other condition to be allowed to attend ([RCW 42.30.040](#)).
- The governing body may require the removal of members of the public who disrupt the orderly conduct of a meeting. This ability to remove disruptive attendees applies to both in-person and remote meetings, although agencies have more tools available in remote meetings to prevent disruption (e.g., muting microphones, disabling chat and video). If order cannot be restored by removal of individuals, the governing body may order the meeting room cleared and may continue in session or it may adjourn and reconvene the meeting at another location, subject to the limitations in [RCW 42.30.050](#). These limitations include that final disposition may be taken only on matters appearing in the agenda and that the press and news media shall be allowed to attend the reconvened session (unless they were disruptive).
- Votes may not be taken by secret ballot. Votes taken by secret ballot are null and void. See [RCW 42.30.060\(2\)](#).
- Meetings may be adjourned (rescheduled) or continued subject to the procedures in [RCW 42.30.090](#), as discussed below.
- The governing body may exclude members of the public and meet either (1) in executive session for one of the reasons specified in and in accordance with the procedures identified in [RCW 42.30.110](#) or (2) in a closed session if the purpose of the meeting is not subject to the requirements of the OPMA under [RCW 42.30.140](#). See discussion on [executive sessions](#) and closed sessions.

PROCEDURAL REQUIREMENTS SPECIFIC TO REGULAR MEETINGS

- The date and time of regular meetings must be established by ordinance, resolution, order, or rule, as may be required for the particular governing body. The location of the regular meeting should also be designated.
- If the regular meeting date falls on a holiday, the meeting must be held on the next business day ([RCW 42.30.070](#)).
- Most agencies must post the regular meeting agenda online at least 24 hours in advance of the published start time of the regular meeting ([RCW 42.30.077](#)). This requirement does not prohibit the agency from subsequently modifying the agenda and failure to post the agenda will not invalidate otherwise legal action taken at the meeting. Cities, towns, and special purpose districts that meet the following criteria are not required to post their regular meeting agendas online:
 - Have a population within its jurisdiction of under 3,000; and
 - Have an aggregate valuation of the property subject to taxation by the district, city or town of less than \$400,000,000, as placed on the last completed and balanced tax rolls of the county preceding the date of the most recent tax levy; and

- Provide confirmation to the state auditor at the time it files its annual reports under [RCW 43.09.230](#) that the cost of posting notices on a website of its own, a shared website, or on the website of the county in which the largest portion of the district's, city's, or town's population resides, would exceed one-tenth of 1% of the district's, city's, or town's budget.

May a regular meeting agenda be modified prior to the meeting?

While the regular meeting agendas must be posted online at least 24 hours prior to the published start time of the meeting, this requirement does not preclude governing bodies from making subsequent changes to a regular meeting agenda. Governing bodies may modify the agenda by adding new items or modifying or removing items, either before or during the meeting. The OPMA does not prohibit taking final action on matters that are added to the preliminary regular meeting agenda. Agencies must be mindful of any restrictions in their local rules of procedures as those rules may affect the timing of agenda modifications and whether the agency can take final action on matters added to the agenda.

PROCEDURAL REQUIREMENTS SPECIFIC TO SPECIAL MEETINGS

The procedural requirements that apply to special meetings deal primarily with the notice that must be provided. These requirements, contained in [RCW 42.30.080](#), are as follows:

- A special meeting may be called by the presiding officer or by a majority of the members of the governing body.¹¹
- Written notice must be delivered personally, by mail, by fax, or by email at least 24 hours before the time of the special meeting to:
 - Each member of the governing body, and to
 - Each local newspaper of general circulation and each local radio or television station that has on file with the governing body a written request to be notified of that special meeting or of all special meetings.¹²
- Notice of the special meeting must be provided to the public as follows:
 - “Prominently displayed” at the main entrance of the agency’s principal location, and at the meeting site if the meeting will not be held at the agency’s principal location and is not held as a remote meeting; and
 - Posted on the agency’s website. Website posting is not required if the agency:
 - Does not have a website or does not share a website with another agency;
 - Does not employ any full-time equivalent employees; or
 - Does not employ personnel whose job it is to maintain or update the website.

¹¹ There is a conflict between the provision in [RCW 42.30.080](#) authorizing a majority of the members of a governing body to call a special meeting and the provision for code cities in [RCW 35A.12.110](#) authorizing three members of the city council to call a special meeting. This conflict occurs only with respect to a code city with a seven-member council, because three members is less than a majority. Since [RCW 42.30.140](#) provides that the provisions of the OPMA will control in case of a conflict between it and another statute, four members of a seven-member code city council, not three, are needed to call a special meeting.

¹² Note also that statutes relating to each class of city require that cities: “[...] establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city’s official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.” See [RCW 35A.12.160](#), [35.22.288](#), [35.23.221](#), [35.27.300](#). There are no similar statutes that apply to counties or special purpose districts. Nevertheless, we recommend that counties and special districts establish like procedures for notifying the public.

- The notice must specify:
 - The time and place of the special meeting, and
 - The business to be transacted at the special meeting.
- The governing body may take final action only concerning matters identified in the notice of the special meeting. This does not prevent a governing body from discussing or otherwise taking less than final action with respect to a matter not identified in the notice.
- Written notice to a member or members of the governing body is not required when:
 - A member files at or prior to the meeting a written waiver of notice or provides a waiver by telegram, fax, or email; or
 - The member is present at the meeting at the time it convenes.

PROCEDURAL REQUIREMENTS SPECIFIC TO EMERGENCY MEETINGS

Special meeting notice requirements may be dispensed with when a special meeting is called to deal with an emergency¹³ involving injury or damage to persons or property or the likelihood of such injury or damage, when the time requirements of the notice would make notice impractical and increase the likelihood of such injury or damage or when notice cannot be posted or displayed with reasonable safety.

If the local, state or federal government declares an emergency and the local government determines it cannot hold a meeting of the governing body with in-person attendance with reasonable safety, the agency may hold a fully remote meeting or hold a meeting at which physical attendance by some or all members of the public is limited ([RCW 42.30.230](#)). In the event of such a meeting, notice must be posted on the agency website even if the agency does not employ full-time-equivalent employees or does not employ personnel whose duty is to maintain or update the website ([RCW 42.30.080](#)(2)(b)).

LOCATION OF MEETINGS

The OPMA does not require that a city, county or, special district governing body hold its meetings within the city or in a particular place in the county or district. However, other statutes require governing bodies to meet in specific locations in order to conduct business.

The councils of code cities, second class cities, and towns may take final actions on ordinances and resolutions only at a meeting within the city or town ([RCW 35.23.181](#), [35.27.270](#), [35A.12.110](#)). Also, as a general matter, county legislative bodies must hold their regular meetings at the county seat ([RCW 36.32.080](#)). However, county legislative bodies can hold regular meetings outside the county seat but within the county if the legislative body determines that “holding a meeting at an alternate location would be in the interest of supporting greater citizen engagement in local government,” as follows: (1) once per calendar month in a city with a greater population than the city in which the county seat is located; and (2) once per calendar quarter in any other location. No more than one meeting per calendar month may be held at an alternate

¹³ The type of emergency contemplated here is a severe one that “involves or threatens physical damage” and requires urgent or immediate action. See [Mead Sch. Dist. No. 354 v. Mead Educ. Ass’n](#) (1975).

location. County legislative bodies may hold special meetings in the county outside of the county seat if there are agenda items that “are of unique interest or concern” to the residents of the area of the county in which the meetings are held ([RCW 36.32.090](#)). And joint meetings – regular or special – of two or more county legislative authorities may be held in the county seat of a participating county if the meeting agenda includes an item or items that “relate to actions or considerations of mutual interest or concern to the participating legislative authorities.”

Some special purpose district governing bodies, such as school district boards of directors, are specifically required to hold their regular meetings within the district, while others, such as irrigation districts, are specifically required to hold meetings in the county where the district is located. See [RCW 28A.330.070](#) (school districts) and [RCW 87.03.115](#) (irrigation districts). Where the statutes are silent as to where meetings must be held for a particular type of district, they should be held within the district or, at the very least, within the county in which the district is located.

PUBLIC COMMENT

Except in an emergency situation, the OPMA requires the governing body to provide an opportunity for public comment “at or before every regular meeting at which final action is to be taken” ([RCW 42.30.240](#)). The comment can be given verbally or in writing. This does not mean that the governing body must allow public comment at every meeting. First, it must be a “regular” meeting. While there is no specific definition of “regular meeting,” a conservative interpretation of the statute is that any meeting that is on the adopted meeting schedule is a “regular meeting.” It does not matter if your agency refers to the meeting as a “business meeting” or a “study session,” if the meeting is on a schedule that is adopted by ordinance, resolution, order, or rule then it is a regular meeting. Second, it must be a meeting at which “final action” is to be taken. “Final action” is defined in [RCW 42.30.020\(4\)](#):

“Final action” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

The governing body has flexibility in deciding when and how it will accept public comment. For example, it can decide that it will only take written comment submitted in advance of the meeting or that it will only take oral comment at the beginning of the meeting. However, if a person notifies the governing body that the person will have “difficulty attending a meeting” because of “disability, limited mobility, or for any other reason that will make physical attendance at a meeting difficult” the governing body must (if feasible) provide an opportunity for that person to provide oral testimony remotely if it is taking oral testimony in-person during the meeting.

Notice of Public Comment Period

If the agency is required by state law to solicit public comment for a statutorily specified period of time and is required by state law to provide notice that it is soliciting public comment, then the notice must specify the first and last date and time by which written public comment may be submitted. See [RCW 42.30.250](#).

MEETING ADJOURNMENTS OR CANCELLATIONS

Meeting Adjournment

The OPMA provides that a meeting can be adjourned – or rescheduled – to a specified time and place ([RCW 42.30.090](#)).¹⁴

There are a few circumstances under which a meeting might be adjourned:

- When the governing body does not achieve a quorum. In that circumstance, less than a quorum may adjourn a meeting to a specified time and place; or
- When all members are absent from a regular meeting or an adjourned regular meeting. In that instance, the clerk or secretary of the governing body may adjourn the meeting to a stated time and place, with notice provided as required for a special meeting, unless notice is waived as provided for special meetings. However, the resulting meeting is still considered a regular meeting.

Meeting Cancellation

The OPMA does not specifically address cancellation of a regular meeting.¹⁵ Technically, a regular meeting can only be adjourned under [RCW 42.30.090](#). But MRSC is aware that local governments often use the term “cancel” when a meeting must be rescheduled (or not held) because of weather, holidays, or knowledge that a quorum is not going to be present. If an agency is not aware of the need to cancel in advance of the meeting but a quorum is not present for a meeting, then those members present (or the clerk or secretary of the governing body if no members are present) can adjourn the meeting to the next regularly scheduled meeting or to an alternative date and time.

Notice Requirements

While not specifically authorized by the OPMA, if an agency knows in advance of the meeting that it must be rescheduled or not held, then MRSC recommends that the notice of “cancellation” should state that the regular meeting is cancelled and rescheduled to the next regular meeting date. Or if the meeting is being rescheduled to a date/time other than that for the next regular meeting, then it should be noticed as a special meeting. In either case notice should be given in the same manner that notice is given for a special meeting under [RCW 42.30.080](#).

Except in the case of remote meetings without a physical location, notice of an adjourned or cancelled meeting is to be provided as follows:

- An order or notice of adjournment or cancellation, specifying the time and place of the meeting to be adjourned or cancelled, must be “conspicuously posted” immediately following adjournment on or near the door of the place where the meeting was held.
- Members of the governing body must receive written notice by mail, fax, or email.

¹⁴ While the term “adjournment” in the OPMA refers to rescheduling a meeting, it is a common and acceptable practice for local governments to end their regular or special meetings by indicating that the meeting is “adjourned.”

¹⁵ When cancelling a regular meeting, be mindful of any state law requirements that the governing body meet a specified number of times per month (for example second class and code city councils and town councils must meet at least once a month. See [RCW 35.23.181](#), [35.27.270](#), [35A.12.110](#)).

- The order or notice must be posted on the agency’s website unless the agency meets the exception criteria in [RCW 42.30.080\(2\)\(b\)](#).
- If the notice or order of an adjourned or cancelled meeting fails to state the hour at which the adjourned or cancelled meeting is to be held, it must be held at the hour specified for regular meetings by ordinance, resolution, or other rule ([RCW 42.30.090](#)).

Hearings

If the governing body is holding a hearing, the hearing may be continued at a later date by following the same procedures for adjournment of meetings ([RCW 42.30.100](#)).

SELECTED QUESTIONS ON PROCEDURAL REQUIREMENTS

Below are additional questions and answers addressing the OPMA’s procedural requirements. For more questions and answers about the OPMA, see MRSC’s page on [Open Public Meetings Act FAQs](#).

Must a city, county, or special purpose district provide published notice of a special meeting?

While notice of a special meeting does not need to be published in the newspaper, the agency must post the special meeting notice on its website unless it does not have a website or does not share a website with another agency. See [RCW 42.30.080\(2\)\(b\)](#). If an agency does not employ any full-time equivalent employees or does not employ personnel whose duty it is to maintain or update the website, it also does not need to post special meeting notice on its website except for the following circumstances:

- The meeting is a fully remote meeting; or
- The meeting is one in which physical attendance by some or all members of the public is limited due to a declared emergency.

May notice to the media of a special meeting be provided by mail, fax, or email?

Yes. [RCW 42.30.080](#) allows notice by mail, fax, or email.

Is an agency required to audio or video record a regular or special meeting?

The OPMA encourages but does not require that agencies record their regular meetings.¹⁶ The OPMA does not encourage recording of special meetings. This is true even if the meeting is held either fully or partially remote. See [RCW 42.30.220](#).

There is also no requirement that the recordings be posted to the agency’s website. The recordings must be retained for the period required by the Washington State Archives’ [Local Government Records Retention schedule](#) and must be made available to the public under the Public Records Act ([Ch. 42.56 RCW](#)).

¹⁶ The one exception to this is that school district boards of directors must audio record all regular and special meetings at which final action is taken or formal public testimony is accepted. [RCW 42.30.035](#).

May a governing body prohibit a member of the public from recording a meeting of the governing body?

No, there is no legal basis for prohibiting the audio or video recording of a meeting of the governing body, unless the recording disrupts the meeting. If the governing body enacted such a rule, it essentially would be conditioning attendance at a meeting on not recording the meeting. This would be contrary to [RCW 42.30.040](#), which prohibits a governing body from imposing any condition on attending a public meeting. See [AGO 1998 No. 15](#).

How can a majority of the governing body agree outside of a formal meeting to call a special meeting without violating the OPMA?

Since a majority of the governing body, under [RCW 42.30.080](#), may call a special meeting “at any time,” it would indeed be an anomaly if, in calling for that meeting, the majority would be considered to have violated the OPMA. In MRSC’s opinion, the only way to give effect to this statutory provision is to allow a majority to communicate as a group in some way (e.g., by phone, email, in person, or through the clerk’s office) to decide whether to have a special meeting, when to have it, and what matters it will deal with. The members could not discuss anything else, such as the substance of the matters to be discussed at the special meeting.

May the agency change the date and time or location of a regular meeting?

The OPMA does not address a one-time change to the date and time or location of a regular meeting. If an agency wants to make a one-time change to the date and time or the location of its regular meeting schedule, it should notice the new meeting as a special meeting pursuant to [RCW 42.30.080](#).

How should the agency notice a joint meeting of the legislative body (such as the city council) and a subagency (such as the planning commission)?

If the subagency is joining the legislative body at its regular meeting, the meeting should be noticed as a special meeting of the subagency. The agenda should include “joint meeting” as an agenda item. If the legislative body and subagency are not meeting during a regular meeting, then the meeting should be noticed as a special meeting of the two bodies.

Executive Sessions

“Executive session” is not expressly defined in the Open Public Meetings Act, but the term is commonly understood to mean that part of a regular or special meeting of a governing body that is closed to the public. A governing body may hold an executive session only for specified purposes, which are identified in [RCW 42.30.110\(1\)\(a\)-\(p\)](#),¹⁷ and only during a regular or special meeting. Nothing, however, prevents a governing body from holding a meeting, which complies with the OPMA’s procedural requirements, for the sole purpose of having an executive session. A governing body should always follow the basic rule that it may not take final action in an executive session.

Information shared in a properly convened executive session is confidential and participants have a duty to keep it so. Disclosure of confidential information from an executive session by a municipal officer violates [RCW 42.23.070\(4\)](#), which prohibits municipal officers from disclosing confidential information gained by reason of the officer’s position. See [AGO 2017 No. 5](#). Confidentiality does not apply to executive session information that was previously publicly discussed or that fell outside the meeting scope.

ATTENDANCE AT EXECUTIVE SESSIONS

Attendance at an executive session need not be limited to the members of the governing body. Persons other than the members of the governing body may attend the executive session at the invitation of that body. Those invited should have some relationship to the matter being addressed in the executive session, or they should be attending to otherwise provide assistance to the governing body. For example, when the governing body is meeting in executive session to discuss litigation or potential litigation, legal counsel must be present and participate in the discussion. Another example of attendance by individuals other than the governing body is when staff of the governing body or of the governmental entity may be needed to present information or to take notes or minutes. Minutes are not required to be taken at an executive session, and because they would be subject to disclosure under the Public Records Act, we recommend that agencies do not take executive session minutes. See [RCW 42.32.030](#).

PROCEDURAL REQUIREMENTS FOR HOLDING EXECUTIVE SESSIONS

Before a governing body may convene in executive session, the presiding officer must publicly announce the executive session to those attending the meeting by stating two things:

- The purpose of the executive session, and
- The time when the executive session will end.

The announced purpose of the executive session must be one of the statutorily-identified purposes for which an executive session may be held and the purpose must be included in the regular or special meeting minutes.

¹⁷ There is at least one statute outside of the Open Public Meetings Act that authorizes an executive session for a purpose not identified in [RCW 42.30.110\(1\)\(a\)-\(p\)](#). [RCW 70.44.062](#) authorizes the board of commissioners of a public hospital district to meet in executive session “concerning the granting, denial, revocation, restriction, or other consideration of the status of the clinical or staff privileges of a physician or other health care provider” or “to review the report or the activities of a quality improvement committee.”

The announcement must contain enough detail to identify the purpose as falling within one of those identified in [RCW 42.30.110\(1\)](#).

If the executive session is not over at the stated time, it may be extended only if the presiding officer announces to the public at the meeting place that it will be extended to a stated time. If the governing body concludes the executive session *before* the time that was stated it would conclude, it may not reconvene in open session until the time stated. Otherwise, the public may, in effect, be excluded from that part of the open meeting that occurs between the close of the executive session and the time that was announced for the conclusion of the executive session.

After conclusion of the executive session, the presiding officer returns to the open session even if it is just to adjourn the meeting.

ALLOWED PURPOSES FOR HOLDING EXECUTIVE SESSIONS

An executive session may be held only for one or more of the purposes identified in [RCW 42.30.110\(1\)](#). Identified below are selected purposes which have practical application to cities, counties, and special purpose districts. The complete list of purposes is set forth in the statute.

- **National Security** ([RCW 42.30.110\(1\)\(a\)\(i\)](#))

“To consider matters affecting national security.”

Until the events of September 11, 2001, the provision allowing for consideration of matters affecting national security in executive session had little, if any, practical application to cities, counties, or special districts. However, since the events of September 11, 2001, it has become clear that local security issues may in some instances have national security implications. So, discussions by city, county, or district governing bodies of security matters relating to possible terrorist activity should come within the ambit of this executive session provision. This would include discussions of vulnerability or response assessments relating to criminal terrorist activity.

- **Data Security Breach** ([RCW 42.30.110\(1\)\(a\)\(ii\)](#))

“To consider, if in compliance with any required data security breach disclosure under [RCW 19.255.010](#) and [RCW 42.56.590](#), and with legal counsel available, information regarding the infrastructure and security of computer and telecommunications networks, security and service recovery plans, security risk assessments and security test results to the extent that they identify specific system vulnerabilities, and other information that if made public may increase the risk to the confidentiality, integrity, or availability of agency security or to information technology infrastructure or asset.”

This provision permits executive session discussion of cybersecurity concerns, so long as legal counsel is present, and the discussion meets the provision’s criteria.

- **Purchase or Lease of Real Estate** ([RCW 42.30.110\(1\)\(b\)](#))

“To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price.”

This provision has two elements:

- The governing body must be considering either purchasing or leasing real property; and
- Public knowledge of the governing body’s consideration would likely cause an increase in the price of the real property.

The consideration of the purchase of real property under this provision can involve condemnation of the property, including the amount of compensation to be offered for the property. See [Port of Seattle v. Rio](#) (1977).

Since this provision recognizes that the process of purchasing or leasing real property or selecting real property to purchase or lease may justify an executive session, it implies that the governing body may need to reach some consensus in executive session as to the price to be offered or the particular property to be selected. See [Port of Seattle v. Rio](#) (1977) at 723-25. However, the State Supreme Court has emphasized that “only the action explicitly specified by [an] exception may take place in executive session.” See [Miller v. Tacoma](#) (1999). See also, [Feature Realty, Inc. v. Spokane](#) (9th Cir. 2003). Taken literally, this limitation would preclude a governing body in executive session from actually selecting a piece of property to acquire or setting a price at which it would be willing to purchase or lease property, because such action would be beyond mere “consideration.” Yet, the purpose of allowing this type of consideration in an executive session would be seemingly defeated by requiring a vote in open session to select the property or to decide how much to pay for it, where public knowledge of these matters would likely increase its price. While this issue awaits judicial or legislative resolution, city and county legislative bodies and special district governing bodies should exercise caution.

- **Sale or Lease of Agency Real Estate** ([RCW 42.30.110](#)(1)(c))

“To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public.”

This subsection, the reverse of the previous one, also has two elements:

- The governing body must be considering the minimum price at which real property belonging to the city or county will be offered for sale or lease; and
- Public knowledge of the governing body's consideration will likely cause a decrease in the price of the property.

The requirement here of taking final action selling or leasing the property in open session may seem unnecessary, since all final actions must be taken in a meeting open to the public. However, its probable purpose is to indicate that, although the decision to sell or lease the property must be made in open session, the governing body may decide in executive session the minimum price at which it will do so. However, see the discussion under the previous provision for meeting in executive session and taking any action in executive session that is not expressly authorized.

If there would be no likelihood of a change in price if these real property matters are considered in open session, then a governing body should not meet in executive session to consider them.

Washington's Supreme Court has said that this section is to be used sparingly. Only actual price can be discussed in executive session. In a case involving a port's lease of its property to a private party, the Court said that factors such as potential impacts on local jobs, local spending, environmental risks, public safety, and risks to neighboring tenants should have been discussed in an open session. These types of factors comprising value must be discussed in open session, though "their specific dollars-and-cents impact on price" may be discussed in executive session. See [Columbia Riverkeeper v. Port of Vancouver USA](#) (2017).

- **Review Negotiations on Performance of Bid Contracts** ([RCW 42.30.110\(1\)\(d\)](#))

"To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs."

This subsection indicates that when a city, county, or special district and a contractor performing a publicly bid contract are negotiating over contract performance, the governing body may "review" those negotiations in executive session if public knowledge of the review would likely cause an increase in contract costs. There is no case law on this provision and it is not clear what circumstances would result in a governing body meeting in executive session under this provision.

- **Complaints and Charges Against Officer or Employee** ([RCW 42.30.110\(1\)\(f\)](#))

"To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge."

For purposes of meeting in executive session under this provision, a "charge" or "complaint" must have been brought against a city, county, or special district officer or employee. A "public officer" includes members of the governing body and volunteers who serve in public officer positions, such as a member of a subagency like the planning commission. The complaint or charge could come from within the city, county, or district or from the public, and it need not be a formal charge or complaint. The bringing of the complaint or charge triggers the opportunity of the officer or employee to request that the discussion be held in open session.

As a general rule, city governing bodies that are subject to the OPMA do not deal with individual personnel matters.¹⁸ For example, the city council should not be involved in individual personnel decisions, as these are within the purview of the administrative branch under the authority of the mayor or city manager.¹⁹ This provision for holding an executive session should not be used as a justification for becoming involved in personnel matters which a governing body may have no authority to address.

¹⁸ A civil service commission is an obvious exception. It, however, addresses personnel actions taken against a covered officer or employee, and it does so in the context of a formal hearing. Another exception is where the governing body may be considering a complaint against one of its members. Also, when a city council has confirmation authority over a mayoral appointment, it may discuss the appointment that is subject to confirmation in executive session.

¹⁹ An exception is where the council, in a council-manager city, may be considering a complaint or charge against the city manager.

- **Evaluate Applicants for Employment or Review Performance of Employees** ([RCW 42.30.110\(1\)\(g\)](#))

“To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to [RCW 42.30.140\(4\)](#), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public.”

There are two different purposes under this provision for which a governing body may meet in executive session: (1) to evaluate qualifications of applicants for public employment; and (2) to review the performance of a public employee. This means that a governing body may evaluate in executive sessions persons who apply for appointive office positions, such as a city manager, as well as those who apply for appointive office or employee positions.²⁰ But, they would not evaluate in executive session:

- The performance of a member of the legislative body (who is not considered a public employee in most circumstances). As mentioned above, complaints or charges against a member of the governing body can be discussed in an executive session under [RCW 42.30.110\(1\)\(f\)](#).
- Applicants for or the performance of uncompensated, appointed offices (like the planning commission) or general volunteer positions (such as a parks department volunteer).

The first purpose under this provision involves evaluating the qualifications of applicants for public employment. This could include personal interviews with an applicant, discussions concerning an applicant's qualifications for a position, and discussions concerning salaries, wages, and other conditions of employment personal to the applicant.

This authority to “evaluate” applicants in executive session allows a governing body to discuss the qualifications of applicants, not to choose which one to hire (to the extent the governing body has any hiring authority). Although this subsection expressly mandates that “final action hiring” of an applicant for employment be taken in open session, this does not mean that a governing body may take preliminary votes in executive session that eliminate candidates from consideration. See [Miller v. Tacoma](#) (1999).

The second part of this provision concerns reviewing the performance of a public employee. Typically, this is done where the governing body is considering a promotion or a salary or wage increase for an individual employee or where it may be considering disciplinary action.²¹

The result of a governing body's executive session review of the performance of an employee may be that the body will take some action either beneficial or adverse to the officer or employee. That action, whether raising a salary of or disciplining an officer or employee, must be made in open session.

20 The courts have, for various purposes, distinguished between a public “office” and a public “employment.” See, e.g., [Oceanographic Comm’n v. O’Brien](#) (1968); [State ex rel. Hamblen v. Yelle](#) (1947); [State ex rel. Brown v. Blew](#) (1944). A test used to distinguish between the two is set out in [Blew](#) at 51.

21 In general, a city council has little or no authority regarding discipline of public officers or employees. An exception would be a city manager over which the council has removal authority. See [RCW 35A.13.130](#) and [35.18.120](#).

Any discussion involving salaries, wages, or conditions of employment to be “generally applied” in the city, county, or district must take place in open session. However, discussions that involve collective bargaining negotiations or strategies are not subject to the Open Public Meetings Act and may be held in closed session without being subject to the procedural requirements for an executive session ([RCW 42.30.140\(4\)](#)).

- **Evaluate Candidates for Appointment to Elective Office** ([RCW 42.30.110\(1\)\(h\)](#))

“To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public.”

This provision applies to a city, county, or district governing body only when it is filling a vacant elective position. Under this provision, the governing body may meet in executive session to evaluate the qualifications of applicants for the vacant position. However, any interviews with the candidates must be held in open session. As with all other appointments, the vote to fill the position must also be in open session.

This provision does not allow evaluation in executive session of a candidate for a nonelected, appointive positions because this provision is limited to evaluations of candidates for elective office.

- **Discuss Enforcement Actions and Litigation with Legal Counsel** ([RCW 42.30.110\(1\)\(i\)](#))

“To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), “potential litigation” means matters protected by RPC 1.6²² or [RCW 5.60.060\(2\)\(a\)](#)²³ concerning:

- (i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;
- (ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or
- (iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency.”

²² RPC 1.6 is part of the Rules of Professional Conduct for attorneys, and it deals specifically with client confidentiality, generally prohibiting disclosure of client confidences except in certain specific situations.

²³ [RCW 5.60.060\(2\)\(a\)](#) provides that an attorney may not be compelled to be a witness at trial and reveal client confidences.

Three basic requirements must be met before this provision can be used by a governing body to meet in closed session:²⁴

- The attorney or special legal counsel representing the city, county, or special district must attend the executive session to discuss the enforcement action or the litigation or potential litigation;
- The discussion with legal counsel must concern either an enforcement action or litigation or potential litigation to which the city, county, district, a governing body, or one of its members is or is likely to become a party; and
- Public knowledge of the discussion would likely result in adverse legal or financial consequence to the city, county, or district.

The potential litigation issue. This provision allows governing bodies to discuss in executive session the legal risks of a proposed or existing practice or action, when discussing those risks in open session would likely have an adverse effect on the agency's financial or legal position. This allows a governing body to freely consider the legal implications of a proposed decision or an existing practice without the attendant concern that some future litigation position might be jeopardized.

The probability of adverse consequence to the city or county. It is probable that public knowledge of most governing body discussions of existing litigation would result in adverse legal or financial consequence to the city, county, or district. Knowledge by one party of the communications between the opposing party and its attorney concerning a lawsuit will almost certainly give the former an advantage over the latter. The same probably can be said of most discussions that qualify as involving potential litigation.

The State Supreme Court has held that a governing body is not required to determine beforehand whether public knowledge of the discussion with legal counsel would likely have adverse consequences; it is sufficient if the agency, from an objective standard, should know that the discussion is not benign and that public knowledge of it will likely result in adverse consequences. See [Recall of Lakewood City Council](#) (2001).

Again, no final action in executive session. The purpose of this executive session provision is to allow the governing body to discuss litigation or enforcement matters with legal counsel; the governing body is not authorized to take final action regarding such matters in an executive session. See [Miller v. Tacoma](#) (1999) and [Feature Realty, Inc. v. Spokane](#) (9th Cir. 2003) (emphasizing that, in order for any action to take place legally in executive session, authority must be “explicitly specified” in an exemption under [RCW 42.30.110\(1\)](#)). The only action that is specifically authorized in this exemption is discussion.

However, since a basic purpose of shielding these discussions from public view is to protect the secrecy of strategic moves concerning litigation, the scope of a governing body's authority in executive session should be interpreted to afford that protection. So, for example, while this provision does not authorize a governing body to approve a settlement agreement in executive session, it should provide authority for that body to authorize its legal counsel to settle a case for no higher than a certain amount. An interpretation supporting the council's authority to take such action appears warranted, but such an interpretation may not be supported by the strict language in case law.

²⁴ This provision for holding an executive session is based on the legislative recognition that the attorney-client privilege between a public agency governing body and its legal counsel can co-exist with the Open Public Meetings Act. See [Final Legislative Report, Forty-Ninth Legislature, 1985 Regular and 1st Special Sessions](#) (SSB 3386); see also [Recall of Lakewood City Council](#) (2001); [Port of Seattle v. Rio](#) (1977); [AGO 1971 No. 33](#). However, that privilege is not necessarily as broad as it may be between a private party and legal counsel.

SELECTED QUESTIONS ON EXECUTIVE SESSIONS

Below are additional questions and answers addressing executive sessions. For more questions and answers about the OPMA, see MRSC's page on [Open Public Meetings Act FAQs](#).

May an executive session be called to discuss “personnel matters”?

No, this would not be a legally sufficient reason to hold an executive session. The purpose for holding an executive session must be within those specifically identified in [RCW 42.30.110\(1\)](#). Although there are personnel issues that may be addressed in an executive session under this statute, such as complaints or charges against an employee or an employee's performance, “personnel matters” is too broad a purpose and could include purposes not authorized by the statute.

May a city council meet in executive session to ask the mayor to resign?

No. Although the council could meet in executive session to discuss complaints or charges against the mayor, the council should take the action of asking for the mayor's resignation in open session. (Of course, a mayor is not legally bound by the council's wishes.)

May a governing body meet in executive session at a special meeting if the notice of the special meeting did not identify that an executive session would be held?

Yes. But [RCW 42.30.080](#) would prevent the governing body from taking final action on a matter that was discussed in executive session when the body reconvenes the open session, unless that action was already on the published agenda. As well, from a policy standpoint, the meeting notice should identify the executive session if the governing body knows at the time of giving the notice that it will be meeting in executive session at the special meeting.

If three members of a seven-member city council interview candidates for a council vacancy, must those interviews be open to the public?

Yes. Although they do not represent a quorum of the council, the three councilmembers would be acting on behalf of the entire council in conducting these interviews. As such, they would be considered a “governing body” subject to the OPMA. Since interviews by a governing body of candidates for appointment to elective office must occur in an open meeting under [RCW 42.30.110\(1\)\(h\)](#), this three-member committee may not meet in executive session for the purpose of interviewing the candidates.

Penalties and Enforcement

The only avenue provided by the Open Public Meetings Act to enforce its provisions or to impose a penalty for a violation of its provisions is by an action in superior court. “Any person” may bring that action in superior court. If a superior court determines that a violation has occurred, liability may be imposed as follows:

- **Individual Liability**

Members of a governing body who attend a meeting where action is taken in violation of the OPMA are subject to a \$500 penalty for the first violation, if they attend with knowledge that the meeting is in violation of the OPMA ([RCW 42.30.120\(1\)](#)). Subsequent knowing violations of the OPMA carry a \$1,000 penalty. Violation of the OPMA is not a criminal offense. The penalty is assessed by the superior court, and any person may bring an action to enforce the penalty ([RCW 42.30.120\(2\)](#)).

Also, a knowing or intentional violation of the OPMA may provide a legal basis for recall of an elected member of a governing body, although recall is not a penalty under the OPMA. See [Recall of Lakewood City Council](#) (2001), [In re Recall of Kast](#) (2001).

- **City, County, or District Liability**

The city, county, or district is liable for all costs, including reasonable attorney fees. However, if a court determines by written findings that an action for violation of the OPMA was “frivolous and advanced without reasonable cause,” a city, county, or district may be awarded reasonable expenses and attorney fees ([RCW 42.30.120\(4\)](#)).

In addition to the above, any person may bring an action by mandamus or injunction to stop violations of the OPMA or to prevent threatened violations ([RCW 42.30.130](#)).

Actions in violation of the OPMA are null and void. Any ordinance, resolution, rule, regulation, order, or directive that is adopted at a meeting that does not comply with the OPMA, and any secret vote taken, is null and void ([RCW 42.30.060](#)). This does not, however, mean that a subsequent action that complies with the OPMA is also invalidated. See [OPAL v. Adams County](#) (1996), [Clark v. City of Lakewood](#) (9th Cir. 2001), and [AGO 1971 No. 33](#). But, where action taken in open session merely ratifies an action taken in violation of the OPMA, the ratification is also null and void. See [Clark v. City of Lakewood](#) (2001) and [Miller v. Tacoma](#) (1999).

Training Requirements

The OPMA requires that all members of governing bodies, state and local, receive training on the requirements of the Open Public Meetings Act ([RCW 42.30.205](#)).

The training must be completed within 90 days after a governing body member takes the oath of office or otherwise assumes the duties of the position. The training must be repeated at intervals of no longer than four years, as long as an individual is a member of the governing body. This legislation does not specify the training that must be received, other than it is to be on the requirements of the OPMA and that it may be completed remotely. No penalty is provided for the failure of a member of a governing body to receive the required training.

For more information on this training requirement, see the Attorney General's [Open Government training](#) page.

Appendix: Recommended Resources

MUNICIPAL RESEARCH AND SERVICES CENTER (MRSC)

- [Open Public Meetings Act Basics](#) – Basic OPMA overview.
- [Executive Session Basics](#) – Basic overview of executive sessions as allowed by the OPMA.
- [Open Public Meetings Act FAQs](#) – Browse answers to frequently asked questions (FAQs) from local governments regarding the Open Public Meetings Act.
- [Executive Session FAQs](#) – Browse answers to frequently asked questions (FAQs) from local governments regarding executive sessions as allowed by the Open Public Meetings Act.
- [OPMA Practice Tips and Checklists](#) – Developed in partnership with the State Auditor’s Center for Government Innovation, these practice tips and short checklists provide practical guidance for local agencies.
- [OPMA Court Decisions and AG Opinions](#) – Key court decisions and attorney general opinions regarding the OPMA organized by topic.
- [Public Hearings](#) – Provides an overview of the legal requirements for conducting public hearings in Washington State and describes the basic procedures that should be followed for a proper public hearing.
- [Recent blog posts about OPMA](#) – Articles written by MRSC staff and contributors about specific aspects of the OPMA, including executive sessions, new legislation, and court decisions. Articles are listed in reverse chronological order, with the most recent first.
- [PRA and OPMA E-Learning Course for City/Town Elected Officials](#) – MRSC partners with the Association of Washington Cities (AWC) to produce two free e-learning courses for city and town councilmembers and mayors, one dealing with the with the Open Public Meetings Act (OPMA) and the other with the Public Records Act (PRA).
- [Upcoming Trainings](#) – MRSC produces webinars every month and several virtual and in person workshops throughout the year, many related to open government.

WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL (AGO)

- [Open Government](#) – Provides links to OPMA trainings and other AGO resources on the OPMA and PRA.
- [OPMA Guidance on Frequently Asked Questions About Processes to Fill Vacant Positions by Public Agency Governing Boards](#) (2016) – This guidance is intended to assist public agency governing bodies in complying with the OPMA when filling vacant positions in their agencies.

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