



**CITY OF KIRKLAND**  
Department of Finance & Administration  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100  
www.kirklandwa.gov

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## MEMORANDUM

**To:** Kurt Triplett, City Manager

**From:** Robin Jenkinson, City Attorney  
Tracey Dunlap, Director of Finance & Administration  
Kathi Anderson, City Clerk

**Date:** January 25, 2013

**Subject:** DRAFT PUBLIC DISCLOSURE ORDINANCE

### **RECOMMENDATION:**

City Council reviews the draft Public Disclosure Ordinance and provides feedback on the proposed approach. The goals of the Ordinance are to establish "reasonable" levels of City resources for public disclosure response, while at the same time creating enhanced transparency and certainty for the public.

### **BACKGROUND DISCUSSION:**

Responding to public records requests is one of the City's unique and core essential functions and is also the responsibility of every City employee. The City responds to over 7,000 public records request each year. The complexity and volume of records requested has grown in recent years, straining the capability of the City's resources. Similar to other essential functions, the staffing and resources that the City can devote to responding to public records requests are necessarily limited. The Public Records Act provides, in part, that agencies will adopt reasonable procedures "to prevent excessive interference with other essential functions of the agency," (RCW 42.56.100). In order to avoid excessive interference with other essential functions of the City, the City Clerk's Office and the City Attorney have been working on a basis for the City to establish the appropriate level of effort to be devoted to responding to public records requests and the level of resource to be allocated. An initial draft of a Public Disclosure Ordinance to accomplish this objective is included as Attachment 1.

The City's current public disclosure process is governed by the Public Records Act and the Public Record Act Rules adopted by the City Council with the passage of Resolution 4669 in 2007. The Resolution authorized the City Manager to update the Rules as needed. The current version of the Rules is included as Attachment 2. The Rules were recently updated in recognition that scanning makes up the bulk of the public records processing today and to make other housekeeping adjustments. If the Public Disclosure Ordinance is adopted, the Rules will need to be updated to harmonize them with the provisions of the Ordinance.

### **Current Resources and Requests**

The following discussion is intended to provide context on the current number of public records requests processed by the City and level of effort devoted to the public disclosure process.

The City Clerk has been designated as the Public Records Officer for the entire City, as required by RCW 42.56.580, and is responsible for overseeing the City's compliance with the public records disclosure requirements. About 20 percent of the total available hours in the City Clerk's office (the City Clerk, Deputy City Clerk, and City Clerk Assistant) are devoted to responding to public records requests, with about half of the City Clerk's time spent on this activity. However, there are staff members with specific public records responsibilities in multiple departments across the City. In identifying the resources expended on this function, estimates were made of the annual time spent by these staff members, as well as the City Clerk's office, with a total of approximately 4,500 hours spent in responding to public records requests. The fully loaded cost of these hours, plus the direct costs for consultants, data storage, and off-site records retrieval are estimated at \$375,000 annually.

The key policy questions to be answered are whether or not this current level of effort is sufficient, and whether or not exceeding this level of effort creates "excessive interference" with other essential functions of the agency. Kirkland, through this Ordinance, would be one of the first governments in Washington to attempt to answer these questions proactively. The primary purpose of the Public Records Act (PRA) is to create transparency and accountability in government. In searching for an appropriate initial resource level, Kirkland looked to the annual amount spent to have the Washington State Auditor review the City's financial performance and compliance. Staff deemed the audits to have a similar mission to the PRA of government transparency and accountability, and there is consensus that the state system of audits is thorough and effective. Therefore, the cost of the Washington State Auditor's Office to audit Kirkland provides a relevant benchmark. The Auditor's Office includes the annual audit cost as a percentage of the jurisdiction's total expenses as part of its audit report. The Auditor's Office cost analysis for the City's 2011 financial audit determined that the audit cost was \$71,240 and that the audit as a percentage of the City's total expenses was 0.049 percent. The City's current level of effort in responding to public records requests represents nearly five times that amount and is approximately 0.247 percent of the City's total expenses.

These costs do not include the time spent by dozens of staff members each year who do not have specific public records responsibilities, but occasionally are called upon to provide records in response to a request. The Ordinance proposes that, for those City employees for whom responding to records requests is not among their primary assigned duties, the need to devote more than ten hours per month to records requests is presumed to interfere with their ability to perform essential functions. This provision does not mean that the staff member does not continue to respond, only that the response may be delayed and the requestor notified of the delay.

### **Establishing "Reasonable" PRA Resources, Enhancing Transparency and Certainty**

The central purposes of this draft Ordinance are twofold. The first is for the City Council to determine what comprises a reasonable commitment of resources to PRA requests. The Ordinance establishes that this determination shall be made during the biennial budget process, which is when the Council balances all of the needs and priorities of the City. The Ordinance finds that the current level of resources allocated are deemed reasonable and adequate for 2013-2014. Then starting with the 2015-1016 biennial budget process, the City Council shall biennially determine and establish the level of effort to be devoted to public records responses and the amount of resources to be allocated. The Ordinance specifies that during the Council budget deliberations, a portion of a public work session must be devoted to public records response. The City Council would be able to reevaluate its determination as part of the mid-

year budget adjustment and modify the public records response resource allocations if necessary.

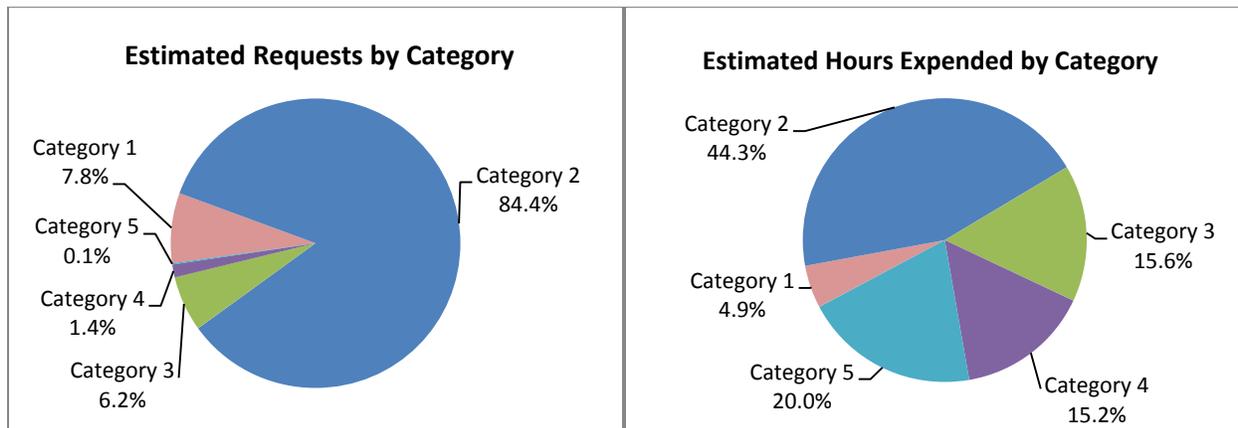
The second purpose is to enhance the transparency and certainty of the processes for the public through logs, best practices for response, and formalized communication with requestors so that requestors, Council and the public knows the status of requests, the estimated time of response, and that changes in status will be clearly tracked and communicated.

### **Public Records Categories**

In drafting the Ordinance, staff has established five broad categories of requests that the City receives reflecting increasing levels of complexity and time required to respond:

- Category 1 records requests are requests requiring immediate response in the interest of public safety (imminent danger). These requests take priority over all other requests.
- Category 2 records requests are routine or readily filled requests for easily identified and immediately accessible records requiring little or no coordination between departments.
- Category 3 records requests are routine requests that involve:
  - A large number of records, and/or
  - Records not easily identified, located and accessible, and
  - Records that require some coordination between departments.
- Category 4 records requests are complex requests which may be especially broad or vague that involve:
  - A large number of records that are not easily identified, located or accessible, requiring significant coordination between multiple departments, and
  - Research by City staff who are not primarily responsible for public disclosure and/or
  - Review by public disclosure staff to determine whether any of the records are exempt from production.
- Category 5 records requests are complex requests that may be especially broad or vague which involve:
  - A large number of records that are not easily identified, located or accessible, requiring coordination between multiple departments, and
  - Research by City staff who are not primarily responsible for public disclosure and/or
  - Legal review and creation of an exemption log. These requests may require additional assistance from third-parties in identification and assembly.

Exhibit A to this memorandum provides a graphical depiction of the estimated annual number of requests in each category and the departments involved in responding. As the diagram shows, the City annually responds to over 7,000 public records requests, over 90 percent of which fall in Categories 1 and 2. The majority of these requests are fulfilled by records staff in the Police Department and Municipal Court. The remaining 10 percent of the requests are coordinated through the City Clerk's Office and require a large proportion of the resources expended by the City. The pie charts that follow show the proportion of the annual public records requests in each category and the proportion of time invested in fulfilling those records requests.



In addition to defining the categories, the draft Ordinance discusses standard response time periods for the categories, recognizing that the time spent responding to requests can vary significantly. Requestors will be notified if the response timeline is extended. Logs and queues of requests will also be posted on the City's website, as discussed further under the *Process* heading below.

The draft Ordinance contemplates that the policies and procedures will be overseen by two staff committees:

- **The Public Disclosure Steering Team** composed of the City Manager or his or her designee, the Director of Finance and Administration, City Clerk, and City Attorney. The Public Disclosure Steering Team shall provide guidance to the Public Disclosure Coordinating Team, as needed and review decisions of Public Disclosure Steering Team to reorder the queues when any person objects in writing (including email) to the reordering of their records request.
- **The Public Disclosure Coordinating Team** comprised of the City Clerk and Deputy City Clerk designated as the lead staff for the team and a designated staff member or members from each department that facilitate the disclosure of public records. The Public Disclosure Coordinating Team shall be responsible for reordering the records request queues based on adopted criteria and identifying policy issues requiring clarification by the Steering Team.

## Next Steps

### *Ordinance*

Once staff receives the Council's feedback on the draft Ordinance, the intent is to widely circulate the draft in a number of forums to obtain input (for example, Association of Washington Cities, City Attorney and City Clerk professional organizations, other individuals with public records expertise). Upon receiving that input, a revised draft would be brought to the City Council for further consideration.

In parallel to this effort, House Bill 1128 has been introduced into the Washington State Legislature (Attachment 3). Section 2 of this bill addresses the same issue as the draft

Ordinance is attempting to address, that is ensuring that responding to public records requests does not interfere with other essential functions of the agency. Staff will be carefully tracking this bill and, if it is passed, the draft Ordinance would need to be evaluated in terms of consistency with its provisions.

#### *Process and Funding Request*

The draft Ordinance contemplates posting logs of the completed Category 1 and 2 requests online and establishing queues for the more complex and/or time-consuming requests (Categories 3, 4, and 5), which will contain more active status information, with completed items then moved to separate logs. Examples of the draft log and queue formats are provided in Attachment 4. Staff is continuing to refine those formats and ensure that the responsible departments are actively keeping them up-to-date.

It will be necessary to identify or develop tools to provide the on-line access contemplated in the draft Ordinance. The City Clerk's Office, in consultation with the City Attorney and Information Technology Department, is evaluating potential options and will bring back a recommendation and associated costs once that research is complete.

To provide capacity for the City Clerk's Office to support continued development and implementation of the provisions of this draft Ordinance, staff is requesting \$10,000 for on-call clerical support for 20 hours per week for the next six months. This additional resource should be able to relieve the City Clerk and Deputy City Clerk of some of their routine duties to provide them with time to devote to the project without it diminishing the time spent in actually responding to requests.

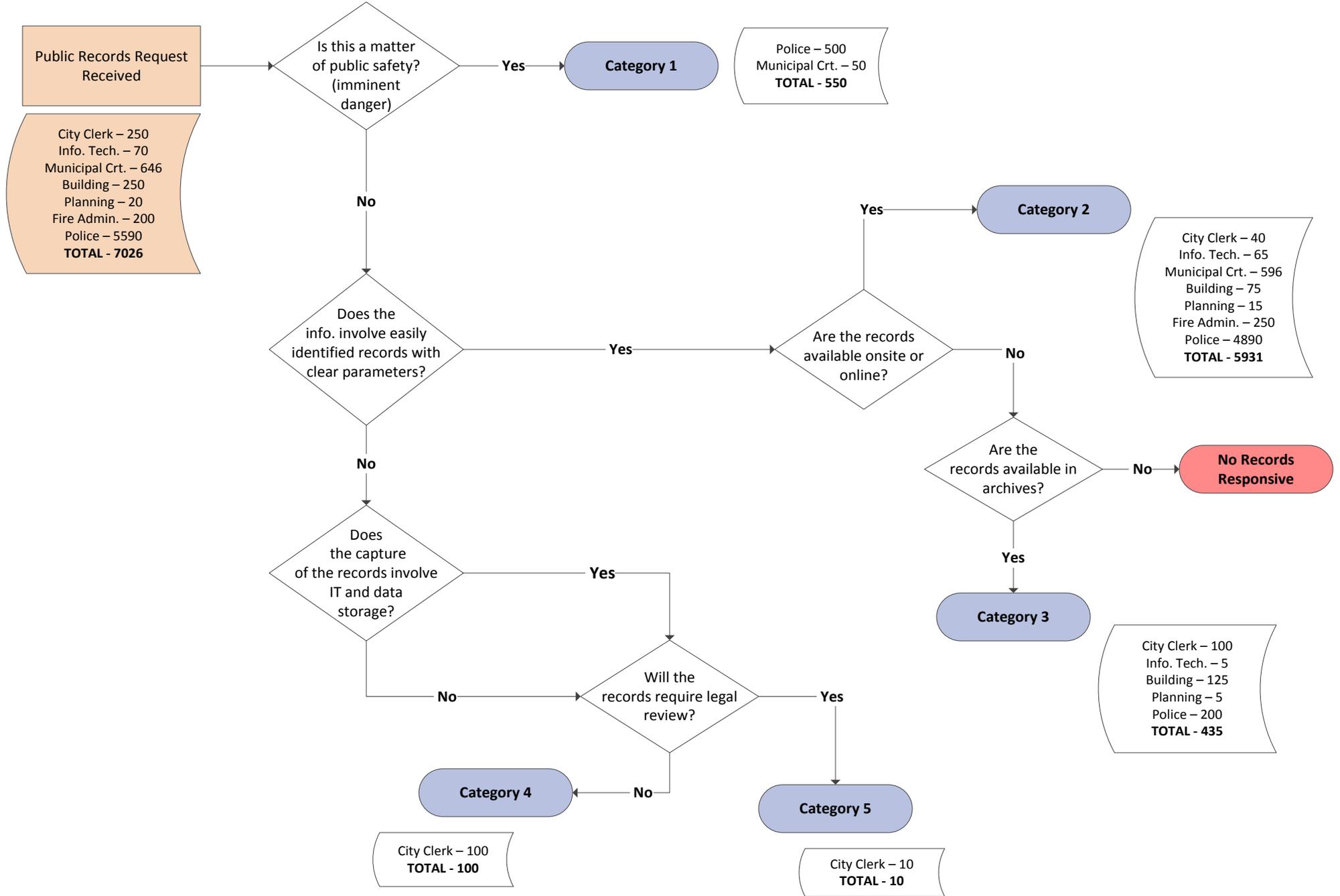
#### *Timetable*

Given the tasks identified above and recognizing the pending legislation, staff estimates that a revised draft of the Ordinance will be brought forward for further review and discussion after the end of the legislative session. Perhaps this could occur as part of the second City Council retreat later in the spring.

However, steps are already in progress toward implementing elements of the draft Ordinance to improve the existing process, pending adoption of the Ordinance, including:

- Consistently logging public disclosure requests City-wide,
- Creating and organizing more complex requests in queues,
- Researching on-line tools to help provide more transparency to the process,
- Setting up planning discussions with impacted staff to establish roles and responsibilities as a precursor to establishing the Steering and Coordinating teams.

# Public Records Request Prioritization Process



ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE ESTABLISHMENT OF A NEW CHAPTER 3.15 IN THE KIRKLAND MUNICIPAL CODE, ACCESS TO PUBLIC RECORDS.

WHEREAS, open government leads to a better informed electorate, greater public participation, better government, and more effective use of public resources; and

WHEREAS, it is the policy of the City of Kirkland that all persons are entitled to the greatest possible information regarding the affairs of City government and the official acts of those officers and employees who serve them; and

WHEREAS, providing persons with such information is a core principle of the City and an integral responsibility of every City employee; and

WHEREAS, RCW 42.56.100 obligates the City to prevent public disclosure demands from causing excessive interference with other essential functions; and

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

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Access to Public Records is established as Chapter 3.15 of the Kirkland Municipal Code to read as follows:

**3.15.010 Findings.**

(a) Responding to public records requests is one of the city's unique and core essential functions and is also the responsibility of every city employee.

(b) Similar to the city's other essential functions, the staffing and resources that the city can devote to responding to public records requests are necessarily limited.

(c) In order to avoid excessive interference with other essential functions of the city, the city needs to establish the appropriate level of effort to be devoted to responding to public records requests and the level of resource to be allocated.

(d) The level of resource allocated to public records requests must be reasonable and needs to be established during the biennial budget process when the city council evaluates the available resources to perform all of the city's essential functions and establishes levels of service.

(e) The city's current level of effort in responding to public records requests represents approximately 0.247 percent of the city's total expenses.

(f) As part of its audit report, the Washington State Auditor's Office provides a benchmark in terms of the audit cost as a percentage of the jurisdiction's total expenses.

(g) The Washington State Auditor's Office cost analysis for the City's 2011 financial audit determined that the audit cost as a percentage of the City's total expenses was 0.049 percent.

(h) Starting with the 2015-2016 biennial budget process, the city council will establish the level of effort to be devoted to responding to records requests and the amount of resource to be allocated.

(i) Using the audit cost analysis by the Washington State Auditor's Office for the audit of the city and the city's current level of public records response effort as the baseline resource allocation rationale, the city council will determine the future levels of effort to be devoted to responding to public records request and the level of resources to be allocated during the biennial budget process.

(j) A semi-annual report on public records requests and the status of requests will be made to the city council and the public.

(k) The city clerk has been designated as the Public Records Officer for the entire city, as required by RCW 42.56.580, and is responsible for overseeing the city's compliance with the public records disclosure requirements.

### **3.15.020 Definitions.**

(a) "Records request queue" means a list of all of the pending category 3, 4, and 5 public records requests.

(b) "Standard time period" means the estimated time to make requested public records available by category of records request.

### **3.15.030 Procedural information.**

As required by the Public Records Act, chapter 42.56 RCW, the city has separately established rules governing the process for requesting public records and responding to requests for public records. These rules are posted on the city's website at [kirklandwa.gov](http://kirklandwa.gov).

### **3.15.040 Public Disclosure Steering Team.**

(a) There is established a public disclosure steering team composed of the city manager or his or her designee, the director of finance and administration, city clerk, and city attorney. The public disclosure steering team shall provide guidance to the public disclosure coordinating team, as needed.

(b) The public disclosure steering team shall review decisions of public disclosure coordinating team to reorder the queues when any person objects in writing (including email) to the reordering of their records request.

(c) The public disclosure steering team may also reorder the records request queues if necessary based on adopted criteria or extraordinary circumstances.

(d) The public disclosure steering team, in addition to other duties, may recommend changes to this chapter to the city council.

### **3.15.050 Public Disclosure Coordinating Team.**

(a) There is established a public disclosure coordinating team. The city clerk and deputy city clerk are designated as the lead staff for the team.

(b) Each city department shall designate a staff member or members to facilitate the disclosure of public records. The designated staff members will serve on the public disclosure coordinating team and assist the city clerk and deputy city clerk in implementing this chapter.

(c) The public disclosure coordinating team shall be responsible for managing the records request queues based on adopted criteria, including, but not limited to:

- (1) the number of records responsive to a given request;
- (2) the number and size of other records requests in the queue;
- (3) the amount of processing required for the subject request or requests and other requests in the queue;
- (4) the status of a particular request that is waiting for third party review or requestor action; and
- (5) the current volume of other city work, as it affects the amount of staff time that can be devoted to the subject request or requests.

(d) The public disclosure coordinating team will assist in maintaining the records requests queues provided for in Section 3.15.090.

### **3.15.060 Categories of requests.**

When a public records request is received, the city will categorize the request according to the nature, volume, and availability of the requested records as follows:

(1) Category 1 records requests are requests requiring immediate response in the interest of public safety (imminent danger). These requests shall take priority over all other requests.

(2) Category 2 records requests are routine or readily filled requests for easily identified and immediately accessible records requiring little or no coordination between departments.

(3) Category 3 records requests are routine requests that involve:

- (A) a large number of records, and/or
- (B) records not easily identified, located and accessible, and
- (C) records that require some coordination between departments.

(4) Category 4 records requests are complex requests which may be especially broad or vague that involve:

(A) a large number of records that are not easily identified, located or accessible, requiring significant coordination between multiple departments, and

(B) research by city staff who are not primarily responsible for public disclosure and/or

(C) review by public disclosure staff to determine whether any of the records are exempt from production.

(5) Category 5 records requests are complex requests that may be especially broad or vague which involve:

(A) a large number of records that are not easily identified, located or accessible, requiring coordination between multiple departments, and

(B) research by city staff who are not primarily responsible for public disclosure and/or

(C) legal review and creation of an exemption log. These requests may require additional assistance from third-parties in identification and assembly.

(6) The city shall ensure that all categories of records requests receive an allocation of resources for response throughout the year.

**3.15.070 Standard time periods for response.**

The city must make public records available promptly when requested under the Public Records Act. If records cannot be made available within five business days, the Act requires a written response to the requestor. The city may acknowledge receipt and provide a reasonable estimate of the time necessary to make the record available.

(1) Category 1 records requests. Generally, the city will respond to category 1 records requests immediately or the next business day after the request is received.

(2) Category 2 records requests. Generally, the city will respond to category 2 records requests within five business days. If records cannot be made available within five business days, the city may extend the time to respond as described above.

(3) Category 3 records requests. The city will provide a written response to the requestor within five business days with a reasonable estimate of the time necessary to make the records available. The estimate is made on a case-by-case basis. Depending on the nature and scope of the request, category 3 records requests usually require between 5 and 30 business days.

(4) Category 4 records requests. The city will provide a written response to the requestor within five business days with a reasonable estimate of the time necessary to make the records available. The estimate is made on a case-by-case basis. Depending on the nature and scope of the request, category 4 records requests may require several weeks or even several months.

(5) Category 5 records requests. The city will provide a written response to the requestor within five business days with a reasonable estimate of the time necessary to make the records available. The estimate is made on a case-by-case basis. Depending on the nature and scope of the request, category 5 records requests may require several weeks or even several months.

**3.15.080 Records requests log.**

(a) Each department shall maintain an electronic log of all records requests received by that department and shall provide access to the log to the city clerk who shall maintain a citywide records requests log.

(b) The city clerk shall establish policies for what information shall be included in the logs and how the logs shall be made publicly available.

(c) The city recognizes that in limited circumstances, processing a request for records may result in more expense to the city than merely copying and providing the records to the requestor. Each city department may designate, within its own department, certain routine records available to the public for immediate inspection without the requirement of a formal records request. However, each of the records requests must be maintained in an electronic log.

**3.15.090 Records requests queues.**

(a) All category 3, 4, or 5 records requests shall be maintained and tracked in records requests queues, with a separate queue for each category.

(b) Records requests will initially be entered in the respective queues in the chronological order in which they are received by the city.

(c) Records requests may be subsequently assigned to a lower position in the queue if it is determined by the public disclosure steering team that adopted criteria for reordering the queue have been met.

**3.15.100 Communications with requestors.**

(a) The city will use its best efforts to provide requestors with accurate and reasonable estimates of how long it will take to provide records responsive to a request.

(b) If the city learns additional time is needed to respond to the records request, the city will promptly communicate the need for additional time to the requestor and inform the requestor of the reason additional time is required and provide an estimated new timeframe for records delivery.

**3.15.110 City website**

(a) By \_\_\_\_\_2013, the city will maintain a separate page on its website that shall include the queues and records requests logs. The city clerk shall ensure that the website is updated to provide current information, including the date the records request was made, its order in the queue, and the estimated time of responding to the request.

(b) The city website will also provide guidance and information to the public for making records requests on its website.

(c) The city website will allow requestors the option of using on-line request forms for requesting records and submitting those requests electronically.

**3.15.120 City employee responsibilities.**

(a) All city employees are responsible for assisting in identifying responsive records and facilitating thorough collection of records.

(b) For most city employees, responding to records requests is a responsibility assigned in addition to their primary assigned duties and functions.

(c) For those city employees for whom responding to records requests is not among their primary assigned duties, the need to devote more than ten hours per month to records requests is presumed to interfere with the ability to perform essential functions.

**3.15.130 Public records performance report.**

(a) No later than July 31 and January 31 of each year, the city clerk will submit to the city council a report on the city's performance in responding to public records requests during the preceding six months. The report shall include, at a minimum:

- (1) open records requests (queue) at beginning of period;
  - (2) number of records requests received in the period by category;
  - (3) number of records requests closed in the period by category;
- and
- (4) open records requests (queue) at end of period.

**3.15.140 Resources devoted to public records disclosure.**

(a) The resources currently allocated to public disclosure response in the 2013-2014 budget are established as the initial level of effort necessary to ensure that public disclosure response is not creating excessive interference with essential government functions.

(b) Starting with the 2015-2016 biennial budget process, the city council shall biennially determine and establish the level of effort to be devoted to public records disclosure and the amount of resources to be allocated. During the budget process, the city council will devote at least a portion of a public work session or council meeting specifically to public records response resource allocation before adopting the final budget.

(c) The city council may reevaluate its determination as part of the mid-year budget adjustment and modify the resource allocation.

Section 2. If any section, subsection, sentence clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Signed in authentication thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

## PUBLIC RECORDS ACT RULES

### **PRA Rule 010. Authority and purpose.**

(1) **Authority.** RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt public records in accordance with published rules. The Public Records Act ("the Act") defines public record 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 the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) **Purpose of Rules.** The purpose of these rules is to establish the procedures the City of Kirkland ("the City") will follow in order to provide full access to public records, fullest assistance to inquirers and the most timely possible action as required by RCW 42.56.100, mindful of the further requirements therein stated that the rules must also protect the records from damage or disorganization and prevent excessive interference with other essential functions of the City. These rules provide information to persons wishing to request access to public records of the City and establish processes for both requestors and City staff that are designed to best assist members of the public in obtaining such access.

(3) **Purpose of Act.** The purpose of the Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the City will be guided by the provisions of the Act describing its purposes and interpretation.

(4) **Act not applicable.** Court files and judges' files are not subject to the Act. Access to these records is governed by court rules and the common law.

(5) **Amendment of the Rules.** By authorization of the City Council in the Resolution approving these rules, the City Manager is authorized to amend the Rules as necessary to remain in compliance with evolving law governing the handling of public records requests and to update the Rules as facts may require.

### **PRA Rule 020. Agency description-Contact information--Public records officer.**

(1) **Agency description.** The City provides the services of a non-charter code city, including but not limited to, building and plans inspection, court, parks and recreation, planning and community development, public safety and public works services, which are supported and supplemented by financial, administrative and legal services. The City's central office is located at 123 Fifth Avenue, Kirkland, WA 98033.

The general course and method by which the City's operations are channeled and determined is through laws adopted and direction given by the City Council and other competent authority in conformity with all applicable city, state and federal law, which is thereafter implemented by the City Manager, Department Directors and their designees in conformity with the requirements of those same laws. The City's rules of procedure are set forth in those same laws or in rules

adopted pursuant to authority granted to others as provided in those laws. The City's substantive rules of general applicability that were adopted as authorized by law, as well as the statements of general policy or interpretations of general applicability formulated and adopted by the City are contained in the Kirkland Municipal Code, or in rules, regulations and interpretations authorized to be adopted or issued in those laws or under federal or state law.

The City has the following field offices at the following addresses:

Municipal Court	11515 NE 118 <sup>th</sup> Street, Kirkland, WA 98034
Fire Stations	
Station 21	9816 Forbes Creek Drive, Kirkland, WA 98033
Station 22	6602 108 <sup>th</sup> Avenue NE, Kirkland WA 98033
Station 24	8411 NE 141 <sup>st</sup> Street, Kirkland 98011
Station 25	12033 76 <sup>th</sup> Place NE, Kirkland, WA 98034
Station 26	9930 124 <sup>th</sup> Avenue NE, Kirkland, WA 98033
Station 27	11210 NE 132 <sup>nd</sup> Street, Kirkland, WA 98034
HR and Parks & Comm. Svcs.	505 Market Street, Kirkland, WA 98033
North Kirkland Comm. Ctr.	12421 103 <sup>rd</sup> Avenue NE, Kirkland, WA 98033
Peter Kirk Community Center	352 Kirkland Avenue, Kirkland, WA 98033
Peter Kirk Pool	340 Kirkland Avenue, Kirkland, WA 98033
Public Works CIP Annex	310 1 <sup>st</sup> Street, Kirkland, WA 98033
Prosecuting Attorney	121 Third Avenue, Kirkland, WA 98033
Public Defender	9757 NE Juanita Drive, Suite 120, Kirkland, WA 98034
Fleet Management	904 8 <sup>th</sup> Street, Kirkland, WA 98033
Maintenance Center	915 8 <sup>th</sup> Street, Kirkland, WA 98033
Parks Maintenance Center	1129 8 <sup>th</sup> Street, Kirkland, WA 98033

(2) **Contact Information-Public Records Officer.** Any person wishing to request access to public records of the City, or seeking assistance in making such a request, should follow the procedures set forth in these Rules and contact the following Public Records Officer of the City to submit such a request or to obtain assistance in making such a request:

Kathi Anderson, City Clerk  
 City of Kirkland  
 123 Fifth Avenue  
 Kirkland, WA 98033  
 (425) 587-3190  
 (425) 587-3198  
 PublicRecords@kirklandwa.gov

Information is also available at the City's web site at [www.kirklandwa.gov](http://www.kirklandwa.gov).

**PRA Rule 030. Availability of public records.**

- (1) **Availability.** Public records are available for inspection and copying during normal business hours of the City, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Inspection of records shall occur at the central offices of the City unless another location is approved by the Public Records Officer or designee ("the PRO").
- (2) **Records index.** By the resolution approving these rules, the Kirkland City Council issued a formal order which found that maintaining an index was unduly burdensome. This finding was based on the fact that the City is comprised of ten departments, their divisions and subdivisions, serving over 80,000 citizens, which maintain separate databases and/or record keeping systems for the indexing of records and information. Because these records are diverse, complex and stored in multiple locations and in multiple computer systems and databases, it is unduly burdensome to maintain a central index of records.
- (3) **Organization of records.** The City will maintain its records in a reasonably organized manner. While committed to fully comply with the Act and these Rules, the City must also take reasonable actions to protect records from damage and disorganization and prevent excessive interference with other essential functions of the City. A requestor shall not take City records from City offices without the permission of the PRO. A variety of records are available on the City's web site at [www.kirklandwa.gov](http://www.kirklandwa.gov). Requestors are encouraged to view the documents available on the web site prior to submitting a records request.
- (4) **Making a request for public records.**
- (a) Any person wishing to inspect or copy public records of the City should make the request in writing on the City's request form, or by letter, fax, or email addressed to the Public Records Officer and including the following information:
- Name of requestor;
  - Address of requestor;
  - Other contact information, including telephone number and any e-mail address;
  - Identification of the public records adequate for the PRO to locate the records; and
  - The date and time of day of the request.
- (b) If the requestor wishes to have copies or scans of the records made instead of simply inspecting them, he or she should so indicate and make arrangements with the PRO to pay for copies or scans of the records as provided in PRA Rule 070 below.
- (c) A form is available for use by requestors at the office of the Public Records Officer and on-line at [www.kirklandwa.gov](http://www.kirklandwa.gov).
- (d) The PRO may accept requests for public records that contain the above information by telephone or in person. If the PRO accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds with a different statement of the scope.

(e) Records requests may only encompass existing records. They cannot be used to obtain copies of records not yet in existence or in the possession of the City.

**PRA Rule 040. Processing of public records requests.**

(1) **Providing "fullest assistance."** Mindful of the requirements of RCW 42.56.100, to the extent reasonably possible, the PRO will process requests in the order allowing the most requests to be processed in the most efficient manner. In an effort to better understand the request and provide all responsive records, the PRO can inquire about the purpose for the request but the requestor is not required to answer except to establish whether inspection and copying would violate RCW 42.56.070(9) (see .040(5) below) or other statute which exempts or prohibits disclosure of specific information or records to certain persons.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, not including the day the request was received as provided by RCW 1.12.040, the PRO will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment or payment of a deposit is made as provided in PRA Rule 070 below, or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of any additional time needed to respond to the request and a date by which the records will be disclosed in whole or in part depending on whether the records are being provided in installments. The factors used to estimate the additional time needed must be based upon criteria that can be articulated and may be presented in the response estimating the additional time needed. However, additional time is only allowed under the following circumstances:

(i) to request clarification from the requestor if the request is unclear or does not sufficiently identify the requested records. Such clarification may be requested and provided by telephone. If the clarification is made by telephone, the PRO will confirm the scope of the clarification in writing. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds with a different statement of the scope;

(ii) to locate and assemble the information requested;

(iii) to notify third persons or agencies in the event the requested records contain information that may affect rights of others and may be exempt from disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request or a statement of the request if no written request was received; or

(iv) to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request; or

(d) deny the request in conformity with subsection (5) below.

(3) **Consequences of failure to respond.** If the PRO does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the Public Records Officer to determine the reason for the failure to respond.

(4) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If a record is exempt from disclosure and should be withheld, the PRO will state the specific exemption and provide a brief explanation of how the exemption applies to the record being withheld. This explanation should be sufficient to enable the requestor to make a threshold determination of whether the claimed exemption is proper. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the PRO will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted. (For the purposes of these Rules, redact means the exempt information will be covered in some manner and then the record will be photocopied and the photocopy then disclosed.)

The City is also prohibited by statute from disclosing lists of individuals for commercial purposes. Therefore, if a request is received for any type of list of individuals, an inquiry as to whether the requestor intends to use the list for commercial purposes must be answered before the list can be provided. If the answer is that it will be used for such purposes, the list cannot be disclosed.

(5) **Inspection of records.**

(a) Consistent with other demands, the City shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the City to copy or scan, if any, and provide payment for those copies or scans.

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

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

(7) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the PRO will close the request and so inform the requestor.

(8) **Later discovered documents.** If, after the PRO has informed the requestor that he or she has provided all available records, the PRO becomes aware of additional responsive documents existing at the time of the request that had not been provided previously, he or she will promptly inform the requestor of the additional documents and provide them on an expedited basis.

(9) **Identifiable record.** A requestor must request an "identifiable record" or "class of records" before an agency must respond to it. An "identifiable record" is one that agency staff can reasonably locate. The Act does not allow a requestor to search through agency files for records which cannot be reasonably identified or described to the agency.

(10) **Requests for information or nonexistent records.** Requests for information are not public records requests. An agency is not required to conduct legal research for a requestor. An agency is not required to create records to respond to a request.

#### **PRA Rule 050. Processing of public records requests-Electronic records.**

(1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** If public records are requested in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by PRA Rule 070 below.

(3) **Customized access to databases.** With the consent of the requestor, the City may provide customized access under RCW 43.105.280 if the record is not reasonably locatable or not reasonably translatable into the format requested. The City may charge a fee consistent with RCW 43.105.280 for such customized access.

(4) **Retaining electronic copies.** Because an electronic record is usually more susceptible to manipulation and alteration than a paper record, the City will keep, when feasible, an electronic copy of the electronic records it provides to a requestor to be able to show the exact records it provided if necessary.

#### **PRA Rule 060. Exemptions provided by other statutes.**

(1) **Exemptions.** The Act provides that a number of records are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following

exemptions, outside the Act, that may restrict the availability of some records held by the City for inspection and copying/scanning:

- RCW 2.64.111 Documents regarding discipline/retirement of judges
- RCW 2.64.113 Confidentiality - violations
- RCW 4.24.550 Information on sex offenders to public
- RCW 5.60.060 Privileged communications
- RCW 5.60.070 Court-ordered mediation records
- RCW 7.68.140 Victims' compensation claims
- RCW 7.69A.030(4) Child victims and witnesses - protection of identity
- RCW 7.69A.050 Rights of child victims and witnesses - addresses
- RCW 7.75.050 Records of Dispute Resolution Centers
- RCW 9.51.050 Disclosing transaction of grand jury
- RCW 9.51.060 Disclosure of grand jury deposition
- RCW 9.02.100 Reproductive privacy
- RCW 9A.82.170 Financial institution records - wrongful disclosure
- RCW 10.27.090 Grand jury testimony/evidence
- RCW 10.27.160 Grand jury reports - release to public only by judicial order
- RCW 10.29.030 Organized crime special inquiry judge
- RCW 10.29.090 Records of special inquiry judge proceedings
- RCW 10.52.100 Records identifying child victim of sexual assault
- RCW 10.77.210 Records of persons committed for criminal insanity
- RCW 10.97.040 Criminal history information released must include disposition
- RCW 10.97.050 Conviction and criminal history information
- RCW 10.97.060 Deletion of certain criminal history record information, conditions
- RCW 10.97.070 Disclosure of identity of suspect to victim
- RCW 10.97.080 Inspection of criminal record by subject
- RCW 13.32A.090 Crisis residential centers notice to parent about child
- RCW 13.34.115 Court dependency proceedings
- RCW 13.40.217 Juveniles adjudicated of sex offenses - release of information
- RCW 13.50.010 Maintenance of and access to juvenile records
- RCW 13.50.050 Juvenile offenders
- RCW 13.50.100 Juvenile/children records not relating to offenses
- RCW 13.60.020 Missing children information
- RCW 13.70.090 Citizen juvenile review board - confidentiality
- RCW 18.04.405 Confidentiality of information gained by CPA
- RCW 18.19.060 Notification to clients by counselors
- RCW 18.19.180 Confidential communications with counselors
- RCW 19.215.020 Destruction of personal health and financial information
- RCW 19.215.030 Compliance with federal rules
- RCW 26.04.175 Name and address of domestic violence victim in marriage records
- RCW 26.12.170 Reports of child abuse/neglect with courts
- RCW 26.23.050 Child support orders
- RCW 26.23.120 Child support records
- RCW 26.26.041 Uniform Parentage Act - protection of participants
- RCW 26.26.450 Confidentiality of genetic testing
- RCW 26.33.330 Sealed court adoption records
- RCW 26.33.340 Agency adoption records

RCW 26.33.343 Access to adoption records by confidential intermediary  
 RCW 26.33.345 Release of name of court for adoption or relinquishment  
 RCW 26.33.380 Adoption - identity of birth parents confidential  
 RCW 26.44.010 Privacy of reports on child abuse and neglect  
 RCW 26.44.020(19) Unfounded allegations of child abuse or neglect  
 RCW 26.44.030 Reports of child abuse/neglect  
 RCW 26.44.125 Right to review and amend abuse finding - confidentiality  
 RCW 27.53.070 Records identifying the location of archaeological sites  
 RCW 29A.08.720 Voter registration records - place of registration confidential  
 RCW 29A.08.710 Voter registration records - certain information exempt  
 RCW Chapter 40.14 Preservation and destruction of public records  
 RCW 42.23.070(4) Municipal officer disclosure of confidential information prohibited  
 RCW 42.41.030(7) Identity of local government whistleblower  
 RCW 42.41.045 Nondisclosure of protected information (whistleblower)  
 RCW 46.52.080 Traffic accident reports - confidentiality  
 RCW 46.52.083 Traffic accident reports - available to interested parties  
 RCW 46.52.120 Traffic crimes and infractions - confidential use by police and courts  
 RCW 46.52.130(2) Abstract of driving record  
 RCW 48.62.101 Local government insurance transactions - access to information  
 RCW 50.13.060 Access to employment security records by local government agencies  
 RCW 50.13.100 Disclosure of non-identifiable information or with consent  
 RCW 51.28.070 Worker's compensation records  
 RCW 51.36.060 Physician information on injured workers  
 RCW 60.70.040 No duty to disclose record of common law lien  
 RCW 68.50.105 Autopsy reports  
 RCW 68.50.320 Dental identification records - available to law enforcement agencies  
 RCW Chapter 70.02 Medical records - access and disclosure - entire chapter  
 RCW 70.05.170 Child mortality reviews by local health departments  
 RCW 70.24.022 Public health agency info. regarding sexually transmitted disease investigations  
 - confidential  
 RCW 70.24.024 Transcripts and records of hearings regarding sexually transmitted diseases  
 RCW 70.24.105 HIV/STD records  
 RCW 70.28.020 Local health department TB records - confidential  
 RCW 70.48.100 Jail records and booking photos  
 RCW 70.58.055 Birth certificates - certain information confidential  
 RCW 70.58.104 Vital records, research confidentiality safeguards  
 RCW 70.96A.150 Alcohol and drug abuse treatment programs  
 RCW 70.123.075 Client records of domestic violence programs  
 RCW 70.125.065 Records of rape crisis centers in discovery  
 RCW 71.05.390 Information about mental health consumers  
 RCW 71.05.395 Ch. 70.02 RCW applies to mental health records  
 RCW 71.05.400 Information to next of kin or representative  
 RCW 71.05.425 Notice of release or transfer of committed person after offense dismissal  
 RCW 71.05.427 Information that can be released  
 RCW 71.05.430 Statistical data  
 RCW 71.05.440 Penalties for unauthorized release of information  
 RCW 71.05.445 Release of mental health information to Dept. of Corrections  
 RCW 71.05.620 Authorization requirements and access to court records

RCW 71.05.630 Release of mental health treatment records  
 RCW 71.05.640 Access to treatment records  
 RCW 71.05.650 Accounting of disclosures  
 RCW 71.24.035(5)(g) Mental health information system  
 RCW 71.34.200 Mental health treatment of minors  
 RCW 71.34.210 Court records for minors related to mental health treatment  
 RCW 71.34.225 Release of mental health services information  
 RCW 71A.14.070 Records regarding developmental disability  
 RCW 72.09.345 Notice to public about sex offenders  
 RCW 72.09.585(3) Disclosure of inmate records to local agencies  
 RCW 74.04.060 Applicants and recipients of public assistance  
 RCW 74.04.520 Food stamp program confidentiality  
 RCW 74.09.900 Medical assistance  
 RCW 74.13.121 Financial information of adoptive parents  
 RCW 74.13.280 Children in out-of-home placements  
 RCW 74.20.280 Child support enforcement - local agency cooperation, information  
 RCW 74.34.095 Abuse of vulnerable adults - confidentiality of investigations and reports  
 RCW 82.32.330 Disclosure of tax information  
 RCW 84.36.389 Confidential income data in property tax records held by assessor  
 RCW 84.40.020 Confidential income data supplied to assessor regarding real property  
 20 USC § 1232g Family Education Rights and Privacy Act  
 42 USC 290dd-2 Confidentiality of Substance Abuse Records  
 42 USC 405(c)(2)(vii)(I) Limits on Use and Disclosure of Social Security Numbers.  
 42 USC 654(26) State Plans for Child Support  
 42 USC 671(a)(8) State Plans for Foster Care and Adoption Assistance  
 42 USC 1396a(7) State Plans for Medical Assistance  
 7 CFR 272.1(c) Food Stamp Applicants and Recipients  
 34 CFR 361.38 State Vocational Rehabilitation Services Programs  
 42 CFR Part 2 (2.1 - 2.67) Confidentiality of Alcohol and Drug Abuse Patient Records  
 42 CFR 431.300 - 307 Safeguarding Information on Applicants and Recipients of Medical Assistance  
 42 CFR 483.420 Client Protections for Intermediate Care Facilities for the Mentally Retarded  
 42 CFR 5106a(b)(2)(A) Grants to States for Child Abuse and Neglect Prevention and Treatment Programs  
 45 CFR 160-164 HIPAA Privacy Rule

**PRA Rule 070. Costs of providing copies of public records.**

- (1) **Costs for copies.** A requestor may obtain copies or scans as provided under RCW 42.596.070(8) and 42.56.120; the City will charge for those copies or scans according to the fee schedule below. For records in other forms, the City will charge the actual cost it pays for the medium used to record the record or records provided. Those mediums include, but are not limited to, tapes, floppy disks, CDs, DVDs and paper that costs more than fifteen cents per page. The statements providing those costs are the invoices paid to obtain them and are available for public inspection and copying.

<b>Document Type/Size</b>	<b>Per Scan Charge</b>	<b>Per Copy Charge</b>
Standard black and white (8.5" x 11")	.16	.17
Standard color (8.5" x 11")	.19	.21
Black and white (8.5" x 14")	.16	.17
Color (8.5" x 14")	.19	.22
Black and white (11" x 17")	.24	.49
Black and white (17" x 22")	.38	.77
Black and white (22" x 34")	.49	.99

Before beginning to make copies, the PRO may require a deposit of up to ten percent of the estimated costs of copying or scanning all the records selected by the requestor. The PRO may also require the payment of the remainder of the copying/scanning costs before providing all the records, or the payment of the costs of copying/scanning an installment before providing that installment. The PRO will not charge sales tax when it makes copies or scans of public records but if the records are sent to a third party for copying/scanning, that third party may charge sales tax and the requestor will be responsible for payment of that tax as well as the third party's actual charges for copies or scans.

(2) **Costs of mailing.** The City may also charge actual costs of mailing, including the cost of the shipping container.

(3) **Payment.** Payment may be made by cash, check, debit card, credit card, or money order made payable to the City.

(4) **Other copying charges.** The Act generally governs copying charges for public records, but several specific statutes govern charges for particular kinds of records. The following nonexhaustive list provides some examples: RCW 46.52.085 (charges for traffic accident reports); RCW 10.97.100 (copies of criminal histories) and RCW 70.58.107 (charges for birth certificates). The City will charge the amount authorized pursuant to these other statutes rather than as provided under the Act.

(5) **Use of outside vendor.** An agency is not required to copy/scan records at its own facilities. An agency can send the project to a commercial copying/scanning center and bill the requestor for the amount charged by the vendor. An agency can arrange with the requestor to pay the vendor directly. An agency cannot charge the default per page copying/scanning charge when its cost at a vendor is less.

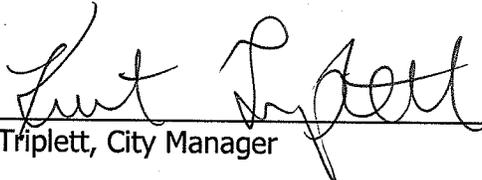
#### **PRA Rule 080. Review of denials of public records requests.**

(1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the PRO denying the request.

(2) **Consideration of petition for review.** The PRO shall promptly provide the petition and any other relevant information to the City official designated by the City to conduct the review. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the City's receipt of the petition, or within such other time as the City and the requestor mutually agree.

(3) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

This document revised and approved on January 25, 2013.

  
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Kurt Triplett, City Manager

H-0181.2

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**HOUSE BILL 1128**

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**State of Washington****63rd Legislature****2013 Regular Session**

**By** Representatives Takko, Rodne, Appleton, Johnson, Klippert, Fitzgibbon, Sullivan, Green, Clibborn, Nealey, Ryu, Walsh, Jinkins, Wylie, Moscoso, Sells, Angel, Sequist, Hunt, Springer, Maxwell, Riccelli, Morrell, Hudgins, Bergquist, and Fey

Read first time 01/16/13. Referred to Committee on Local Government.

1 AN ACT Relating to public record request response actions by  
2 counties, cities, towns, special purpose districts, and other local  
3 agency entities; and adding new sections to chapter 42.56 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.56 RCW  
6 to read as follows:

7 (1) In addition to other provisions in this chapter for enjoining  
8 the inspection or copying of public records, the inspection or copying  
9 of any public record may be enjoined pursuant to this section. The  
10 injunction may be requested by: A local agency or its representative;  
11 a person named in the record or the person's representative; or a  
12 person to whom the request specifically pertains to or the person's  
13 representative.

14 (2) In order to issue the injunction, the court must find that:

15 (a) The request was made to harass or intimidate the local agency  
16 or its employees;

17 (b) The request was made in retaliation or to punish the local  
18 agency for an action or actions the local agency took or proposed to  
19 take;

1 (c) The public record request creates an undue burden on the local  
2 agency;

3 (d) Fulfilling the public record request would likely threaten the  
4 safety or security of staff, family members of staff, or the security  
5 of the local agency's facilities; or

6 (e) Fulfilling the public record request would likely assist  
7 criminal activity.

8 (3) In deciding whether to enjoin a public record request under  
9 this section, the court may consider all relevant factors including,  
10 but not limited to:

11 (a) Other public record requests by the requestor;

12 (b) The type of public record or records sought;

13 (c) Statements offered by the requestor concerning the purpose for  
14 the public record request;

15 (d) Whether disclosure of the requested public records would likely  
16 harm any person or vital government interest;

17 (e) Whether the public record request seeks a significant and  
18 burdensome number of documents, however an injunction may not be issued  
19 under this section based solely on the number of records requested;

20 (f) The local agency's effort to accommodate the requestor;

21 (g) The resources necessary to fulfill the request, taking into  
22 account the resources of the local agency as a whole and the local  
23 agency's other essential functions;

24 (h) The impact of disclosure on the safety or security of the local  
25 agency staff, facilities, or others; and

26 (i) The deterrence of criminal activity.

27 (4) The motion proceeding described in this section shall be a  
28 summary proceeding based on affidavits or declarations, unless the  
29 court orders otherwise. Upon a showing by a preponderance of the  
30 evidence, the court may enjoin all or any part of a request or  
31 requests. The court may also approve a plan submitted by the local  
32 agency for fulfilling all or part of the request or requests. Based on  
33 the evidence, the court may also enjoin, for a period of time the court  
34 deems reasonable, future requests by the same requestor, or an entity  
35 owned or controlled, in whole or in part, by the same requestor.

36 (5) Before filing a request for an injunction, a local agency must  
37 notify the public record requestor that it intends to seek an  
38 injunction. The requestor has fifteen days to revise its public record

1 request. If the requestor submits a revised public record request, the  
2 local agency may still seek judicial review without allowing the  
3 requestor to subsequently revise the request.

4 (6) Unless the court orders a temporary restraining order enjoining  
5 its responsibility to fulfill the request, the local agency must  
6 continue to fulfill the request in a manner consistent with this  
7 chapter until the court issues a decision on the injunction request.

8 (7) A local agency is not liable for penalties under RCW  
9 42.56.550(4) for any period during which an order under this section is  
10 in effect, including during an appeal of an order under this section,  
11 regardless of the outcome of the appeal.

12 (8) The party seeking an injunction under this section may file the  
13 injunction action in rem naming the request itself as the subject of  
14 the lawsuit, and notice must be provided to the requestor at whatever  
15 contact information was provided to the local agency at the time of the  
16 request.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.56 RCW  
18 to read as follows:

19 (1)(a) In order to prevent excessive interference with other  
20 essential functions, a local agency may adopt a policy limiting the  
21 number of hours it devotes to responding to public records requests.  
22 This policy may only be adopted if the local agency makes the following  
23 documents publicly available:

24 (i) Budgets for the ongoing and three previous fiscal years;

25 (ii) Agendas and minutes for all public meetings of the local  
26 agency's governing body for the three previous fiscal years;

27 (iii) The salary schedule for all current positions and the names  
28 of all employees;

29 (iv) Resolutions and ordinances; and

30 (v) Contracts exceeding thirty-five thousand dollars that are  
31 ongoing or have been terminated in the three previous fiscal years.

32 (b) The policy may include rules for establishing priorities as to  
33 the order in which requests will be fulfilled. Prioritizations may be  
34 based on the size of the request and the number of requests the  
35 requestor has made in the preceding twelve months.

36 (c) Local agencies choosing to adopt the policy authorized by this  
37 subsection (1) must do so in the form of adopted legislation.

1 (2) Tasks subject to the limit authorized by this section include  
2 the time it takes to search for responsive records and review and  
3 redact responsive records. Tasks subject to the limit authorized by  
4 this section do not include time spent in litigation or time spent by  
5 an attorney providing legal advice regarding records.

6 (3)(a) If a local agency adopts rules authorized by this section,  
7 the local agency must inform the requestor of the factors that will  
8 determine a response time estimate, including a list of all other  
9 pending requests, if the local agency anticipates that it will take  
10 more than sixty calendar days to fulfill a request.

11 (b) The local agency's time estimate is subject to court challenge  
12 pursuant to RCW 42.56.550(2).

13 (4) For any legislation or rule adopted under this section, the  
14 value of the time allotted is presumed reasonable if it equals one  
15 percent of the local agency's annual operations and maintenance budget,  
16 or a lesser amount provided that it is reasonable in light of the local  
17 agency's resources and other essential functions. The allocated amount  
18 must be based on the average salary of the person or persons primarily  
19 assigned to process requests. In no case may a local agency adopt a  
20 rule that allows it to spend fewer than five hours per month responding  
21 to requests.

22 (5) For local agencies with a general fund budget equaling or  
23 exceeding one million dollars, documents are publicly available if they  
24 are accessible through a central web site. For local agencies with  
25 budgets that are less than one million dollars, documents are publicly  
26 available if they are produced for inspection within five business days  
27 of being requested or accessible through the local agency's web site.

28 (6) A local agency is deemed to have complied with the disclosure  
29 requirement under this chapter if the requested information is  
30 available on the agency's web site and the local agency informs the  
31 requestor, who is entitled to notice, of its web site availability. If  
32 the requestor expressly requests the information in paper, the local  
33 agency must provide it in that format.

--- END ---

## Sample Public Disclosure Log - Finance &amp; Administration Department

REQUESTOR	CROSS REFERENCE	DATE RECEIVED	DATE COMPLETE	Category	Staff	Dept	NOTES
Thomas, A.		1/3/2011	3/2/2012	2	AM	PLAN/BLDG	All Development Records for Parcel 3885808355
Cruz, C.		12/2/2011	1/6/2012	3	KA/AM	FA/HR	Salary Information
Ingalls, L.		12/14/2011	1/11/2012	3	KA/AM	FA	Request was abandoned
Houston, C.		12/30/2011	1/22/2012	3	KA	FA	Contracts for NE 53rd Street Sewer Main Replacement
Kann, V.		1/4/2012	1/11/2012	3	KA	FA	Successful Proposal for E-Discovery RFP
Flynn, G.		1/9/2012	1/25/2012	3	KA	PLAN/BLDG	All Development Records for Parcel 3126059037
Tate, N.		1/15/2012	1/26/2012	3	KA	FA	Successful Proposal for E-Discovery RFP
Steel, D.		1/19/2012	2/6/2012	3	KA	FA	Top 10 wage earners at the City
Jordan, R.		1/24/2012	2/29/2012	3	KA	PW	Project File for Juanita Beach
Quick, M.		1/30/2012	2/6/2012	3	KA	PLAN/BLDG	All Development Records for Parcel 3885805255
Klassen, J		2/2/2012	2/2/2012	3	KA	PLAN/BLDG	All Development Records for Parcel 3885805255
Wheelan, C.	Brooks, Crais & Garcia	2/24/2012	5/16/2012	3	AM	FA	No records responsive to request
Barnett, M.		2/29/2012	3/2/2012	3	KA	FA	Ordinances for Property Tax Levy - 2003-current
Briggs, P.	Thompson, M.	3/5/2012	3/6/2012	3	KA/AM	PLAN/BLDG	All Development Records for Parcel 3126059037
Fisher, P.		12/14/2011	1/4/2012	2	KA	FA	O-3847, O-3211, O-2449
Quinn, J.		12/21/2011	1/3/2012	2	KA	PLAN	Code Enforcement File
Cornwall, P.		12/24/2011	2/3/2012	2	KA	FA	Recording No. 20120709000180
Brown, D.	Saunders, G.	12/30/2011	10/16/2012	2	KA	FA	Recordings for Parcel 3126059037
Applegate, K.		12/31/2011	1/4/2012	2	AM	PLAN	Code Enforcement File
Thorne, P.		1/3/2012	1/13/2012	2	AM	PLAN	Code Enforcement File
Hesseini, K.		1/17/2012	1/17/2012	2	AM		No records responsive to request
Kennedy, P.	Green, J.	1/23/2012	2/2/2012	2	AM	PLAN	Code Enforcement File
Rath, T.		1/30/2012	2/13/2012	2	AM	PLAN	Code Enforcement File
Patterson, J.		2/10/2012	3/2/2012	2	AM	FA	Request was abandoned
Barry, D.		2/14/2012	2/22/2012	2	AM	FA	Ratings criteria for E-Discovery RFP
Sparks, N.		2/15/2012	2/29/2012	2	AM	PLAN	Code Enforcement File
Bradely, A.		2/16/2012	2/28/2012	2	AM	PLAN	Code Enforcement File
Garcia, K.		2/29/2012	3/9/2012	2	AM	PLAN	Code Enforcement File
Garcia, K.		3/2/2012	3/2/2012	2	AM	PLAN	Code Enforcement File

## Sample Public Disclosure Queue

Name	Date In	Last Action Date	Date Due	Category	Notes
Hunter, E.	6/10/2012	9/15/2012	11/1/2012	5	Request all emails (1/1/12-6/10/12) between L. Gardner, L. Hillenbrand and K. Harrison regarding Belle Vista Development
Hunter, E.	6/13/2012		9/14/2012	5	Request of all emails, meeting notes, meeting minutes, correspondence between City staff and developers/builders on Belle Vista Development
Monroe, C	8/22/2012	9/14/2012	9/14/2012	5	Have sent most of the data. Waiting for an attorney's release for all medical data included in the claim - otherwise will need to send rest with an exemption log
Hunter, E.	11/6/2012	11/6/2012	6/1/2013	5	Request all emails (1/1/12-11/1/12) between L. Gardner, L. Hillenbrand, K. Harrison, K. Robert, B. Meltzer, J. Neal, A. Gore, G. Martin, K. Follett, H. Lee, PSE, Riordan Co., Tillman, Edrich & Recitas, Chelho Co., Genet, Inc.
Hunter, E.	11/14/2012	1/15/2013	6/1/2013	5	Any and all email correspondence between L. Gardner, L. Hillenbarnd and K. Harrison regarding E. Hunter.
Owen, M.	2/3/2012	5/2/2011	5/11/2012	4	All IT investigation reports, invoices & communications including e-mail done by Robb, J., Meacham, J. or any other City of Kirkland employee for or on behalf of the City of Medina, it's employees or the WCIA for the City of Medina. Includes an ~29 pg report that was generated or maintained for Medina or Datanode in Oct/Nov 2010, possibly related to an MX Logic investigation related to the City of Medina. Last comment shows waiting for and updated set of email in .msg format from Roth, V.
Palacio, R.	3/8/2012	7/6/2012	8/1/2012	4	Original request went to City Clerk about Municipal Court records. Included request for prosecutor records. Case is from 2008 - records were destroyed in 2011 as per the retention schedule. Requestor was informed of this and directed to the Municipal Court to request the court files.
Owen, M.	5/7/2012	8/28/2012	9/14/2012	4	All search warrants, search warrant affidavits, subpoenas, subpoena requests and all related communications pertaining to any investigation conducted by the City of Kirkland or any of their employees or contractor for 11/1/10-4/30/11. 5/16/12 - partial release of records. 7/13/12 - Sent an updated due date of 7/27/12 8/28/12 - Sent an updated due date of 9/14/12
Osborne, M.P.	12/6/2012	12/11/2012	12/18/2012	4	Names of judges and prosecutors employed by the City of Kirkland (1998-2012) 12/11/12 - Provided a listing of prosecutors for the timeframe.
Osborne, M.P.	12/6/2012	1/15/2013	2/15/2013	4	Names of all police officers employed by the City of Kirkland between 1998-2012. Originally sent to PD. Forwarded to City Clerk on 12/11/12.
Osborne, M.P.	12/7/2012	1/15/2013	3/1/2013	4	Employment history for Police officers (J. Green, R. Skloot, W. Manchester, D. Roberts).