

ORDINANCE O-4414

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, the Public Records Act expressly provides that, "mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society" (RCW 42.17A.001(11)); and

WHEREAS, under the Public Records Act, agencies are "to provide full access to public records". . ."the fullest assistance to inquirers and the most timely possible action on requests for information"(RCW 42.56.100); 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 City functions; and

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

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) 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.

(f) 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.

(g) The city's current level of effort in responding to public records requests was adopted as part of the 2013-2014 budget and represents nearly five times the amount spent on audits.

(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 requests 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 Procedural information.**

As required by the Public Records Act, chapter 42.56 RCW, the city has separately established Public Records Act Rules ("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). Consistent with the findings of this chapter, the public disclosure steering team, as established in Section 3.15.030, shall promulgate rules to implement this chapter.

**3.15.030 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, the city clerk and the city attorney. The

public disclosure steering team shall provide guidance to the public disclosure coordinating team, as needed.

(b) The public disclosure steering team is the body designated by the city to conduct reviews when any person objects in writing (including email) to the initial denial or partial denial of their records request.

(c) The public disclosure steering team may also manage the records request queues if necessary based on criteria set forth in the Rules or extraordinary circumstances.

(d) The public disclosure steering team will review the City Manager's proposed amendments to the Public Record Act Rules.

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

(f) The public disclosure steering team may add members, as needed.

### **3.15.040 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 criteria set forth in the Rules.

### **3.15.050 Categories of requests.**

(a) When a public records request is received, the department receiving the request will categorize the request according to the nature, volume, and availability of the requested records as set forth in the Rules. The categories of public records requests will be established based on criteria such as:

- (1) The immediacy of the required response in the interest of public safety (imminent danger).
- (2) The complexity of the records request in terms of the breadth, ease of identification, and accessibility.
- (3) The amount of coordination required between departments.
- (4) The number of records requested.
- (5) The extent of research required by city staff that is not primarily responsible for public disclosure.
- (6) The need for legal review and/or additional assistance from third-parties in identification and assembly.
- (7) Other criteria the Public Disclosure Steering Team deems appropriate.

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

### **3.15.060 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. The Rules shall establish goals for standard response periods for all categories of records requests.

### **3.15.070 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) In consultation with the public disclosure steering team, 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.

### **3.15.080 Records requests queues.**

(a) Records requests shall be maintained and tracked in records requests queues, as set forth in the Rules. The queues shall identify the status of the records requests as "pending," "active," or "completed."

(b) Records requests will initially be entered in the respective queues in the chronological order in which they are received by the city. Responding to a records request is not always a sequential process. The clerk will manage the active queues by moving between requests in accordance with the Rules.

(c) Records requests will be subsequently managed in the queue based on the criteria set forth in the Rules.

### **3.15.090 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, inform the requestor of the reason additional time is required and provide an estimated new timeframe for records delivery.

### **3.15.100 City website.**

(a) The city posts commonly requested records on its website.

(b) The city's response to a records request may be to provide the requestor a link to records posted on its website, unless the requestor notifies the city that he or she cannot access the records through the internet.

(c) By November 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.

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

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

### **3.15.110 City employee responsibilities.**

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

(b) The city will provide training to city employees on their obligations under the Public Records Act, including the responsibility of all employees to retain records according to the relevant retention schedule.

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

(d) 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 in a month to records production may result in delay of the response to a records request.

### **3.15.120 Public records performance report.**

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.

### **3.15.130 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 city 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.

(d) The city does not intend every employee to expend ten hours per month responding to records requests. The limitation in Section 3.15.110(d) of up to ten hours per month for those city employees for whom responding to records requests is not among their primary assigned duties is not an allocation of resources available for other public records responses.

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 16th day of July, 2013.

Signed in authentication thereof this 16th day of July, 2013.

  
MAYOR

Attest:

  
City Clerk

Approved as to Form:

  
City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE O-4414

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.

SECTION 1. Establishes a new Kirkland Municipal Code Chapter 3.15 relating to access to public records.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 16th day of July, 2013.

I certify that the foregoing is a summary of Ordinance O-4414 approved by the Kirkland City Council for summary publication.

  
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City Clerk