

Ordinance No. 3588

["Beginning July 1, 1998"]

(Amending or Repealing Ordinances)

Amends Ord. 3531

ORDINANCE NO. 3588

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 1 05 of the Kent City Code, entitled "Public Records Indexes and Records Requests under the Public Disclosure Act," establishing and codifying new policies relating to the processing of public records requests

WHEREAS, Ch 42 17 RCW provides that the public shall be given full access to public records to assure continuing public confidence of fairness of elections and governmental processes, and to assure that the public interest will be fully protected, and

WHEREAS, in order to improve its level of customer service to the public, the City recently hired a Records Management Officer whose responsibilities include facilitating the response to all public records requests, and

WHEREAS, the City's current policy regarding the processing of public records requests is contained within the City's Policy Manual made available to all City staff However, this policy manual is not always easily available to the public, and

WHEREAS, by converting the current City of Kent Administrative Policy 1 3 from a policy provision to a code provision, the public will be better able to access the City's processing procedure, and

WHEREAS, this ordinance also modifies existing policy provisions to clarify and streamline the processing procedure, to make some records that each department can individually designate as "over the counter" records available without completion of a request form, and to make other revisions and additions to the existing policy in order to provide a quicker response to the public, NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON,
DOES HEREBY ORDAIN AS FOLLOWS

SECTION 1. Chapter 1 05, entitled "Public Records Indexes and Records Requests Under the Public Disclosure Act," is hereby amended to read as follows

**~~CHAPTER 1.05 PUBLIC RECORDS INDEXES AND RECORDS REQUESTS
UNDER THE PUBLIC DISCLOSURE ACT~~**

Sec. 1.05.010. Purpose. The objective of this chapter is to establish the process for obtaining public records as required by Chapter 42 17 of the Revised Code of Washington Failure of the City to fully comply with any provision of this chapter shall not result in any liability imposed upon the City other than those outlined in Ch 42 17 RCW

Sec. 1.05.0420. Index of Public Records - Findings.

A Ch 42 17 RCW requires all cities and public agencies to maintain and make available a current index of all public records

B RCW 42 17 260(4)(a) provides that if maintaining such an index would be unduly burdensome, or would interfere with agency operation, a city need not maintain

such an index but it must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome

C The City of Kent is comprised of twelve departments, their divisions and subdivisions, which maintain separate databases and/or record keeping systems for the indexing of records and information

D Because the city has records which are diverse, complex and stored in multiple locations and in multiple computer systems, formats and/or databases, it is unduly burdensome, if not physically impossible, to maintain a central index of records

E The City of Kent will make available for inspection and/or copying all public records, including any indexes that are maintained by the City pursuant to the Public Disclosure Act, Ch 42 17 RCW and this chapter

Sec. 1.05.0230. Order regarding Public Records Index. Based upon the findings set forth in KCC 1 05 0210, and pursuant to RCW 42 17 260(4)(a), the City Council orders the following

A The City of Kent is not required to maintain a current index of public records due to findings of the City Council that the requirement is unduly burdensome and such a list is nearly impossible to create and/or maintain, and

B Pursuant to Ch 42.17 RCW and this chapter, the City of Kent shall make available for public inspection and/or copying all public records and any indexes of public records maintained by the City to the extent not exempt from inspection and/or copying pursuant to RCW 42 17 310 or other applicable law

Sec. 1.05.040. Form and manner of request for public records.

A All requests for public records shall be made in writing and delivered in person, by mail, or electronically through the City's online Public Records Request form Requests delivered by facsimile, electronically, other than those requests submitted through the City's online Public Records Request form, telephone, or orally will not be accepted as valid public record requests

B The City will provide a public records request form that may be used by those requesting public records The public records request may be submitted on the form provided by the City, or in another written format that contains the following information

1 The date of the request,

2 The name of the requestor,

3 The full address of the requestor,

4 The telephone number of the requestor,

5 A complete description of the requested record,

6 The title and date of the requested record, if known,

7 The location of the requested record, if known, and

8 Whether the requestor intends to inspect the records or to obtain a photocopy of the records, at the cost set forth in section 1 05 100 below

C Requests for public records shall be submitted to the Records Management Officer located within the City Clerk's Office, 220 Fourth Avenue South, Kent, WA 98032, or his or her designee, or online through the City's web site The Records Management Officer has designated City employees listed in subsections (1) through (4) below who may receive public record requests directly for specific records identified below in an attempt to provide the quickest response possible If the record requested is not identified in subsections (1) through (4) below, or the requestor is unsure of where to file the request, the request shall be filed with the Records Management Officer of the City Clerk's Office

1 The Records Manager of the Police Department if the request is to inspect and/or photocopy a police or incident report The request shall comply with subsections (A) and (B) herein and shall be delivered to the Police Department, 232 – 4th Avenue South, Kent, WA 98032, or

2 The Records Manager of the Fire Department if the request is to inspect and/or photocopy a fire report or an aid report The request shall comply with subsections (A) and (B) herein and shall be delivered to Fire Station 74, 24611 – 116th Avenue S E , Kent, WA 98031 All other requests for records of the Fire Department

outside of fire and aid reports, shall be submitted to the City's Records Management Officer as prescribed in subsection (C) above, or

3 The Records Manager of the Community Development Office if the request is to inspect and/or photocopy a planning file which the departmental records manager, in his or her own discretion, determines to be readily available and easily accessible to the requestor without significant staff time expended In the event the departmental records manager believes that the request cannot be fulfilled without staff impacts, then he or she shall refer the requestor to the Records Management Officer located in the City Clerk's Office, or

4 The Records Manager of the Public Works Department if the request is to inspect and/or photocopy a public works file which the departmental records manager, in his or her own discretion, determines to be readily available and accessible to the requestor without significant staff time expended In the event the departmental records manager believes that the request cannot be fulfilled without staff impacts, then he or she shall refer the requestor to the Records Management Officer located in the City Clerk's Office

D If the requestor submits the request on the form provided by the City, the Records Management Officer, or his or her designee, should indicate on the form the estimation of time necessary to provide a final response to the request In the event the estimation of time necessary for providing records does not appear on the form, the estimated time for providing disclosable records shall be twenty-one (21) calendar days. Records provided in response to a public records request shall be those documents of record available for disclosure as of the date of the request

E Each City department may designate within its own department certain "over the counter" records available to the public for immediate inspection without the requirement of a formal public records request as set forth in section 1 05 040 In the event a photocopy of such "over the counter" records is requested, and if the requested record is an 8½" x 14" page or smaller, the department may provide the first ten (10) pages free of charge However, if the photocopies exceed ten (10) pages, a public

disclosure request will then need to be completed and the applicable duplication cost paid

Sec. 1.05.050. Initial response to request.

A The City shall make an initial response to the request for public records within five (5) business days of receipt of the request. In the event a request for public records is received after 5 00 p m , the request shall be deemed to have been received on the next business day. Depending upon the nature of request, the City may respond initially by

1 Producing the record - or the disclosable portions of the record - after the payment of applicable fees,

2 Acknowledging the City's receipt of the request accompanied by an estimate of the time necessary for further response,

3 Denying the request accompanied by an explanation of the basis for the denial,

4 Requesting a deposit, or

5 Requesting clarification of the request

B In the event that the requestor completes the City's standard public records request form, the returned copy provided to the requestor shall constitute the initial response by the City with the estimation of time necessary for further response. In the event the estimation of time necessary for providing records does not appear on the form, the estimated time for providing disclosable records shall be twenty-one (21) calendar days

Sec. 1.05.060. Final response to request. A public disclosure request is not continuing in nature. In the event additional records are created after the date of the requestor's original public records request, the requestor will need to submit a new request. Any records or portions of records disclosed by the City will be provided to the requestor in the same format as they are retained, provided that any disclosable records contained on a computer or other electronic or mechanical device shall, at the

discretion of the City, be provided in printed form, on disk, or in another format. If the requestor specifies a format in which the records should be disclosed, the City will disclose the records in the requested format if (1) it is determined that disclosable records exist, (2) the City is capable of providing the records in the format requested, (3) the format requested is reasonable, and (4) the requestor pays all fees required by this policy. The City's response to the request shall be deemed complete and the City's response final upon (1) requestor's inspection of the records or (2) in the event photocopies were requested, upon notification to the requestor that the photocopies requested are available for payment and pick-up.

Sec. 1.05.070. Inspection of Records. In the event a requestor chooses to inspect records, the City shall notify the requestor once the records which respond to the request are available for inspection. The records will be available for inspection at a date and time mutually agreeable between the requestor and the City's Records Management Officer, or his or her designee. The appointment to inspect the records may be broken into intervals, possibly over a couple of days, so as to not interfere with the daily operations of the City Clerk's Office, the Records Management Officer, or other City employees. Any appointment to inspect records shall be limited to no more than a two (2) hour appointment on any given day, unless otherwise mutually agreed upon between the requestor and the Records Management Officer, or his or her designee. Records that have been pulled for inspection shall be made available to the requestor for a period of no more than fourteen (14) calendar days. In the event a requestor fails to contact the Records Management Officer, or his or her designee, within fourteen (14) calendar days of being notified that the records are available for inspection (1) the records shall be returned to the originating department, and (2) the requestor will need to submit a new request for the records and the process will begin anew.

Sec. 1.05.080. Records subject to disclosure. The City need only disclose records to the extent required or permitted by state or federal law and nothing in this

policy shall be interpreted as requiring the disclosure of any record that is not subject to disclosure by state or federal law. Generally, any record, or portion thereof, which is exempt from disclosure will not be disclosed, and information contained in the records may be removed to the extent necessary or permissible by law. The City will not create records or documents in response to a request for public records that do not exist at the time the request is made.

Sec. 1.05.090. Denial of request – Appeal. In the event that the Records Management Officer denies a request for public records, the requestor may appeal the denial to the City Clerk. In the event that no response to the appeal is delivered to the requestor within two (2) business days of the City's receipt of the appeal, the denial may be deemed final.

Sec. 1.05.100. Duplication and transmission fees. Prior to the disclosure of any public record, duplication fees shall be collected. The City's Records Management Officer shall establish, update and post applicable duplication fees as appropriate. Each department and the City Clerk shall have the department's fee schedule available for inspection upon request.

In providing a response to a records request, the City will provide all audio tapes, videotapes, computer diskettes or other media requested. No requestor provided media will be used.

Sec. 1.05.110. Deposit for duplication. In the event that it is estimated that the duplication or transmission fees applicable to a particular records request exceed \$25.00, the City, at its discretion, may require the requestor to deposit a sum equal to 75% of the estimated cost prior to duplication of the records. In the event that a deposit is required, the City will notify the requestor of the necessity of the deposit. Any deposit shall be made in accordance with section 1.05.120 of this chapter. In the event that the actual duplication and deposit fees are less than the amount deposited by

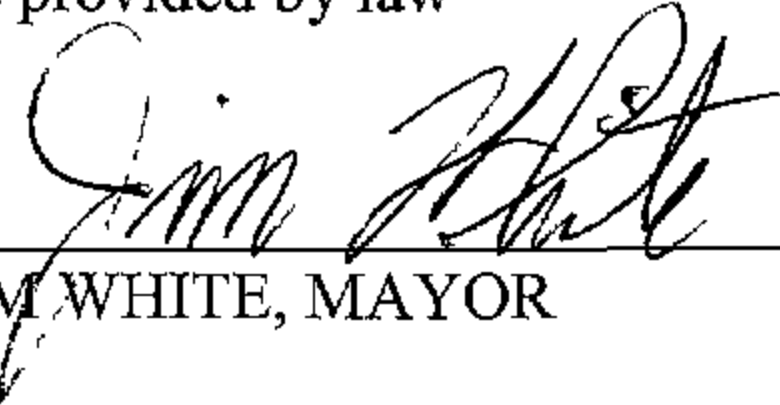
the requestor, the City will return the sum in excess of the actual amount to the requestor

Sec. 1.05.120. Payment of required fees. Payment of duplication and delivery fees shall be made prior to the disclosure of public records. When required pursuant to section 1 05 110 of this chapter, the payment of a deposit shall be made prior to the duplication of any records. All payments shall be made by cash, money order, or check payable to the City of Kent. Payment shall be made in person at the Customer Service Desk located in the Centennial Center, 400 West Gowe St., Kent, Washington 98032, or by mail to the Records Management Officer, City Clerk's Office, 220 Fourth Avenue South, Kent, Washington 98032.

Sec. 1.05.130. Failure to pay required fees. In the event a requestor fails to pay a bill for fees incurred within 30 calendar days, the City shall require the requestor to pay in full the past due amount owed (together with any accrued interest) before it will begin processing a new request or a pending request from the delinquent requestor. In addition, the City may require advance payment for any future requests of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requestor. If the City is unable to collect the duplication fees from the requestor, the City may, upon providing thirty (30) calendar days prior written notice to the requestor, destroy the duplication set of records made available for the requestor in order to avoid storage concerns. Although the records are destroyed, the requestor shall still be made responsible for the costs the City incurred in duplicating the records originally requested by the requestor.

SECTION 2. – Severability. If any one or more section, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 3. – Effective Date This ordinance shall take effect and be in force thirty (30) days after passage as provided by law

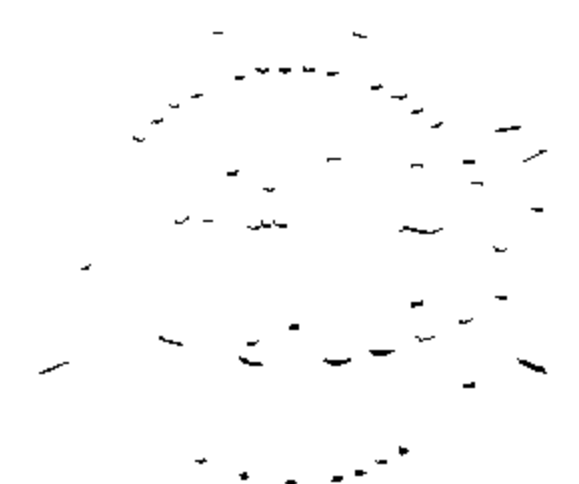


JIM WHITE, MAYOR

ATTEST



BRENDA JACOBER, CITY CLERK



APPROVED AS TO FORM




TOM BRUBAKER, CITY ATTORNEY

PASSED 5 day of March, 2002

APPROVED 5 day of March, 2002

PUBLISHED 9 day of March, 2002

I hereby certify that this is a true copy of Ordinance No 3588 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated



BRENDA JACOBER, CITY CLERK (SEAL)

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