



## POLICY & PROCEDURE

<b>Subject:</b> COUNCIL EMAIL			<b>Index: LEGISLATIVE</b> <b>Number: 800-11</b>	
<b>Effective Date:</b> 12/10/2018	<b>Supersedes:</b> 8/6/2007	<b>Page:</b> 1 of 4	<b>Staff Contact:</b> CAO	<b>Approved By:</b> Resolution #4363 on 12/10/2018

### 1.0 **PURPOSE:**

To facilitate email communication between and among Councilmembers, City staff, residents, and others; to establish procedures for retention of email messages in compliance with the Public Records Act, and to assist Councilmembers in complying the Open Public Meetings Act and other applicable laws.

### 2.0 **ORGANIZATIONS AFFECTED:**

City Councilmembers

### 3.0 **REFERENCES:**

RCW 40.14  
RCW 40.16  
RCW 42.30  
RCW 42.56  
WAC 434.12A  
Policy & Procedure 800-04

### 4.0 **POLICY:**

- 4.1 All Councilmembers' email communications in the City-hosted email system are public records, and must be maintained, retained, and disposed of in accordance with State law.
- 4.2 Emails are subject to public records disclosure per RCW 42.56.
- 4.3 All Councilmembers' email records generated in the conduct of City business are the property of the City of Renton, regardless of where the records are located.

- 4.4 Council email shall be maintained in compliance with the Public Records Act through software applications and policies administered by the City Clerk Division and the Information Technology Division.
- 4.5 Deletion of any public record, including email that has retention value, may be illegal in the State of Washington and subject to criminal penalties.
- 4.6 Councilmembers must exercise caution when directly communicating with fellow Councilmembers via email, so as to not unintentionally violate the Open Public Meetings Act. To avoid a violation of the letter or spirit of the law, any interactive email (i.e. email requiring or inviting two-way communication) between or among a quorum of Councilmembers must be restricted to matters that are not currently or likely to come before Council. A quorum means four Councilmembers. Forwarding of informational materials between or among Councilmembers on a “no comment” or “FYI only” basis is not a violation of the law. Passive receipt of an email is also not a violation of the law.
- 4.7 Councilmembers who are serving in a quasi-judicial role (i.e. land use appeals) must not engage in generating or reading substantive emails concerning the matter on appeal. For purposes of this provision, a substantive email is one that relates to a matter before the Council while acting in a quasi-judicial role and has any information other than the scheduling or procedures of the hearing. Any substantive emails received by a Councilmember must, without review by the Councilmember, be routed to the Council Liaison to then be routed to the City Attorney’s office or to the counsel representing Council if the City Attorney’s office is not representing Council. If the substantive email contains or discusses information that is not within the closed record, the quasi-judicial body may not consider it. In the even the substantive email contains or discusses information that is both within and without the closed record, only those parts of the email that relate to information within the record may be considered by the judicial body. Other parts must be redacted and not considered.
- 4.8 See Policy & Procedure 800-04 regarding the handling of Council correspondence received from residents.

**5.0 DEFINITIONS:**

- 5.1 **Council Action:** “Action” under the Open Public Meetings Act means the transaction of the official business of a public agency by a governing body including, but not limited to, receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. “Final Action” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

- 5.2 **Electronic Mail (Email) System:** A means of creating and sending messages between computers using a computer network or over a modem.
- 5.3 **Email Messages or Communications:** Any communication that is broadcast, created, sent, forwarded, replied to, transmitted, stored, held, copied, downloaded, displayed, viewed, read or printed by one or several electronic communications systems or services. This includes the contents of the communication, the transactional information (metadata), and any attachments associated with such communication.
- 5.4 **Public Records:** Any “writing” containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any State or local agency regardless of physical form or characteristics.
- “Writing” as regards public records, means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.
- 5.5 **Public Records Disclosure:** Records requests and related process regulated by RCW 42.56, whereby “each agency... shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of this section or other statute.”
- 5.6 **Quasi-Judicial Role:** A quasi-judicial role occurs when Councilmembers are performing a function as a member of an appellate body, determining the legal rights, duties or privileges of a party to a hearing or other contested matter, rather than matters affecting the public as a whole. An example is an appeal of a land use ruling.
- 5.7 **Records Management and Retention:** The City’s program for records management, is facilitated by the City Clerk Division and is based on Records Management Guidelines and the State records retention schedule issued under the authority of the Washington State Local Records Committee through the office of the Secretary of State, Division of Archives and Records Management in compliance with RCW 40.14.

5.8 **Retention Value:** The degree of importance attributed to a document measured by the records retention schedules issued and approved by the Washington State Local Records Committee.

5.9 **Transitory Messages:** Email messages which are a public record, but have no State mandated retention value and can be deleted when its administrative use has ended.

**6.0 PROCEDURES:**

6.1 Each Councilmember is responsible for complying with laws and regulations that govern City email communications. Councilmembers are encouraged to send and receive email messages related to City business through the City email system. A copy of each such email message sent and received on other systems should be forwarded to a City account for retention requirements.

6.2 The Council Liaison shall manage and maintain email messages for Council in accordance with the City's email policy.

6.3 The City Attorney's Office shall provide current information and advice to the Council President, the Council Liaison, and individual Councilmembers to assist with email compliance when requested.