

ORDINANCE NO. 2551

AN ORDINANCE OF THE CITY OF ISSAQUAH RELATING TO PUBLIC RECORDS; ADOPTING NEW REGULATIONS GOVERNING THE DISCLOSURE OF PUBLIC RECORDS; REPEALING AND REENACTING CHAPTER 1.28 OF THE ISSAQUAH MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Public Records Act, chapter 42.56 of the Revised Code of Washington (chapter 42.56 RCW), requires cities to adopt rules of procedure consistent with the intent of the Public Records Act, to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with essential City functions; and

WHEREAS, the Public Records Act requires the City to make public records available for inspection and copying, subject to certain exemptions; and

WHEREAS, the City Council supports the policy of the Public Records Act, to provide citizens with broad access to public records; and

WHEREAS, the City Council desires to update its current public disclosure regulations in order to conform with changes to state law; and

WHEREAS, chapter 42.56 RCW requires all cities and public agencies to maintain and make available a current index of public records; and

WHEREAS, RCW 42.56.070(4) provides that if maintaining such an index would be unduly burdensome or interfere with agency operation, a city must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome; and

WHEREAS, the City believes it previously adopted such an order indicating the undue burden of maintaining an index of public records and is unable to locate such order; and

WHEREAS, the City further desires to ratify its earlier determination of undue burden for maintaining an index of public records;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ISSAQUAH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repeal and reenactment of Chapter 1.28 IMC. Chapter 1.28, Public Records, of the Issaquah Municipal Code is hereby repealed in its entirety and reenacted to read as follows:

Chapter 1.28
Public Records

Sections:

- 1.28.010 Relationship to Public Records Act.
- 1.28.020 Public Records Officer.
- 1.28.030 Maintenance of Records.
- 1.28.040 Index of Public Records – Findings.
- 1.28.050 Index of Public Records – Order.
- 1.28.060 Disclosure of Public Records.
- 1.28.070 Procedure for Inspection or Copying.
- 1.28.080 Processing Public Records Requests - Review of Decision.
- 1.28.090 Exemptions.
- 1.28.100 Reimbursement for Copying Costs.
- 1.28.110 Administrative Rules.

1.28.010 – Relationship to Public Records Act.

This chapter constitutes the City's rules and regulations to carry out and implement the Public Records Act, chapter 42.56 RCW.

1.28.020 – Public Records Officers.

The City Clerk shall serve as the public records officer for all City records except those maintained by the Issaquah Police Department. The Office Supervisor for the Police Department shall serve as the public records officer for all records maintained by the Issaquah Police Department. Contact information for the City Clerk and Office Supervisor for the Police Department will be made available to the public in a manner reasonably calculated to provide notice of to whom members of the public may direct requests, such as posting such contact information at City Hall, the police department, or on the City's internet website.

1.28.030 - Maintenance of Records.

A. All substantive and procedural rules of general applicability, including but not limited to ordinances and resolutions of the City Council, minutes of the regular meetings of the City Council, and statements of general policy, and all public contracts, deeds, easements and leases shall be indexed and maintained by the City Clerk.

B. All police records shall be maintained in the Issaquah Police Department. Access to police records shall be in accordance with the policy established by the Police Department, pursuant to laws including but not limited to chapter 42.56 RCW, chapter 10.97 RCW (Criminal Records Privacy Act), and

chapter 13.50 RCW (Keeping and Release of Juvenile Records).

C. All other records of the City relating to the specific function or responsibility of a particular department shall be maintained for the use of the department and the general public in the office of the particular department. Such records shall include, but not be limited to: planning policies and goals, and interim and final planning decisions; factual staff reports and studies; factual consultant's reports and studies; scientific reports and studies; and any other factual information derived from tests, studies, reports or surveys, whether conducted by City employees or others.

1.28.040 – Index of Public Records – Findings.

A. The Public Records Act requires all cities and public agencies to maintain and make available a current index of all public records.

B. RCW 42.56.070(4) provides that an agency need not maintain such an index if to do so would be unduly burdensome, but it must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome or would interfere with agency operations.

C. The City is comprised of numerous departments, their divisions and subdivisions, many if not all of which maintain separate databases and/or 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 current index of all records.

1.28.050 - Index of Public Records – Order.

Based upon the findings set forth in IMC 1.28.040, and pursuant to RCW 42.56.070(4), the City Council orders the following:

A. The City is not required to maintain an all-inclusive index of public records due to the undue burden and near-impossibility of maintaining such an index.

B. The City will make available for inspection and/or copying all public records, including any indexes that are maintained by the City as set forth in IMC 1.28.030, except to the extent that such records are exempt from public disclosure.

1.28.060 – Disclosure of Public Records.

Unless exempt from disclosure under this chapter or other law, public records shall be available for inspection and copying in accordance with this chapter.

1.28.070 – Procedure for Inspection or Copying.

A. All persons desiring to inspect or obtain a copy of any public record must make their request in writing to the City Clerk. The City Clerk shall create and avail for public use a standard form by which a requester may specify particular public records and provide the requester's relevant contact information. Reasonable assistance as may be necessary to help a requestor locate particular records shall be provided either by the City Clerk or by the City department maintaining the records. PROVIDED, that the provision of such assistance shall not unreasonably disrupt the normal operations of the City Clerk, the department, or the assisting employee.

B. Except to the extent required or authorized by law, the City Clerk or other City employee shall not distinguish among persons requesting records. Persons requesting records shall not be required to provide information as to the purpose for the request, except to establish whether the inspection or copying would violate chapter 42.56 RCW or other statute or ordinance that exempts or prohibits disclosure of specific information or records to certain persons.

1.28.080 – Processing Public Records Requests - Review of Decision.

A. Responses to requests for public records shall be made promptly pursuant to chapter 42.56 RCW. Within five business days of the date of receipt by the City of a written request for a record, the City Clerk shall:

1. Provide the record; or
2. Acknowledge that the City has received the request and (a) provide a reasonable estimate of the time the City will require to respond to the request, or (b) request clarification; or
3. Deny the public record request in whole or in part.

B. Public records may be made available on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for public inspection or copying. Additional time to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt. If a public records request is unclear, the City Clerk may ask the requestor to clarify what information the requestor is requesting. If the requestor fails to clarify the request, the City need not further respond to or process the request.

C. If the City Clerk determines that the document is exempt in part but can be made available after deletion of exempt portions, the request shall be granted; provided, that such exempt portions shall first be deleted. If the City Clerk determines to deny the request, in whole or in part, a written statement of the specific reasons for the denial shall be provided to the requestor. PROVIDED, that nothing herein shall be construed as requiring the City to disclose portions of a requested document if the entire document is exempt from disclosure.

D. In the event the City Clerk denies inspection of all or any part of a request, the City Clerk may seek review by the City Attorney. The City Clerk will notify the requestor by mail of the decision to grant or deny the request.

1.28.090 – Exemptions.

The City adopts by reference the exemptions from public disclosure contained in chapter 42.56 RCW, including any future amendments thereto or recodification thereof, along with any other exemption or exception to the Public Records Act provided by law, including but not limited to those exemptions set forth in Appendix C to “Public Records Act for Washington Cities and Counties,” Municipal Research and Services Center, Report No. 61, May 2007, as may be amended from time to time, a copy of which shall be maintained in the office of the City Clerk.

1.28.100 – Reimbursement for Copying Costs.

A. No fee shall be charged for the inspection of public records. Any person who requests a copy of any public record from the City shall pay to the City Clerk or designee a copying charge. The copying charges for public records, including but not limited to photocopies, maps, photographs including slides, audio tape recordings, video tape recordings and diskettes shall be included in a fee schedule maintained by the City Clerk. Nothing herein shall be construed to apply to charges for accident reports pursuant to RCW 46.52.085.

B. The City may charge all costs directly incident to shipping such public records, including but not limited to the cost of postage or delivery charges and the cost of any container or envelope pursuant to RCW 42.56.070(7).

C. The City may, at its discretion, require the requestor to deposit a sum in an amount not to exceed 10 percent of the estimated cost of providing copies for a request. If the records are made available on a partial or installment basis, the City may charge for each part of the request as it is provided. If an installment of a records request is not paid for or reviewed within twenty days after the City provides notice of availability of the installment, the City is not obligated to fulfill the balance of the request.

1.28.110 – Model Rules and Administrative Procedures.

The City may, in its discretion, follow the Public Records Act Model Rules on file at the City Clerk's Office. The Mayor, upon recommendation of the City Clerk, may issue additional administrative procedures for the implementation of this chapter.

Section 2. Severability. If any section, sentence, clause, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall take effect five (5) days after publication of a summary consisting of the title.

Passed by the City Council of the City of Issaquah, the 2nd day of March, 2009.

Approved by the Mayor of the City of Issaquah the 2nd day of March, 2009.

APPROVED:

AVA FRISINGER, MAYOR

ATTEST/AUTHENTICATED:

CHRISTINE EGGERS, CITY CLERK

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____

PUBLISHED: 3/11/2009
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