

07/14/2014
07/21/2014

ORDINANCE NO. M-4083

AN ORDINANCE relating to regulating compliance with the requirements of RCW 42.56, the Public Records Act (“the Act”); adding a new chapter to the Vancouver Municipal Code (VMC) to be codified at Chapter 2.90 VMC; providing for the adoption of rules, organization of public records, categories of records requests, records requests logs and queues, performance reports, resources devoted to public records disclosure, reviewing denials of requests and costs of disclosing records; and providing for savings, severability, and an effective date.

WHEREAS, under the Act, government agencies such as the City are “to provide full access to public records” and “the fullest assistance to inquirers and the most timely possible action on requests for information” (RCW 42.56.100); and

WHEREAS, RCW 42.56.100 also provides that a municipality shall allocate its resources in such a way so as to prevent public disclosure demands from causing excessive interference with other essential City 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; and

WHEREAS, the City will, during the 2017-2018 budget cycle, calculate the cost of providing a reasonable level of effort in responding to requests for public records and thereafter include such cost as part of the biennial budget; and

WHEREAS, the City interprets the fulfillment of public records requests to be a City administrative function, and “the city manager shall be head of the administrative branch of the city government and shall be responsible to the City Council for the proper administration of all affairs of the city” (Vancouver City Charter 3.03); and

WHEREAS, the State has published model rules as part of the Washington Administrative Code (WAC), which the City may use to administer the Act; and

WHEREAS, a number of such WAC rules have been used in preparing a set of public record request rules for adoption by the City.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Adoption. A new Chapter 2.90 to the Vancouver Municipal Code, “Public Records Disclosure” is hereby adopted as shown in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 2. Severability. If any clause, sentence, paragraph, section, or part of this ordinance or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not effect or invalidate the remainder of any parts thereof to any person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 3. Effective date. This ordinance shall become effective thirty (30) days following the date of final adoption.

Read first time: July 14, 2014

Ayes: Councilmembers Topper, Turley, Hansen, Burdeman, Smith,
Mayor Leavitt

Nays: Councilmembers U

Absent: Councilmembers McEnemy-Ogle

Read second time: July 21, 2014

PASSED by the following vote: 6-0

Ayes: Councilmembers McEnemy-Ogle, Turley, Hansen, Burdeman,
Smith, Mayor Leavitt

Nays: Councilmembers


Absent: Councilmembers Topper

SIGNED this 21st day of July, 2014.



Timothy D. Leavitt, Mayor

Attest:



R. Lloyd Tyler, City Clerk
By: Carrie Lewellen, Deputy City Clerk

Approved as to form:



Ted H. Gathe, City Attorney

"NEW CHAPTER"

Chapter 2.90

PUBLIC RECORDS DISCLOSURE

Sections:

- 2.90.010 Findings**
- 2.90.020 Definitions**
- 2.90.030 Authority**
- 2.90.040 Rules**
- 2.90.050 Organization of records**
- 2.90.060 Processing Requests**
- 2.90.070 Reviewing denial of requests**
- 2.90.080 Costs of producing public records**
- 2.90.090 Oversight**

2.90.010 Findings

The City finds that the following principles govern public records disclosure.

- A. Responding to public records requests is one of the City's unique and essential functions.
- 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 will establish the appropriate level of effort and the level of resources to be allocated in responding to public records requests.
- D. The level of resources 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. Starting with the 2017-2018 biennial budget and continuing thereafter, the City Council will quantify the level of effort and the amount of resources to be allocated in responding to public records requests.

F. The City will adopt a set of rules that will provide guidance to both the public and City staff regarding the process of handling public records requests, and the City Manager shall be delegated authority to add to or amend such rules as is found necessary.

2.90.020 Definitions

As used in this chapter, the following terms shall mean the following:

A. "Category" means a numerical ranking system that reflects the complexity, nature, volume and availability of any particular public records requests. This ranking shall affect the process of fulfilling such a request.

B. "Public Disclosure Coordinating Team" means a body comprising a representative of each City department, headed by the Public Disclosure Officer, which is responsible for managing public records disclosures.

C. "Public Disclosure Steering Team" means a body comprising the City Manager's designee, City Attorney, and the Director of Finance/City Clerk. This body has various responsibilities to guide the City's public disclosure policies.

D. "Public Records Act Rules" means a set of published administrative rules that provide a process for how the public may request public records from the City and how the City shall respond to such requests.

E. "Public Records Officer" ("Officer") means a designated City employee who is responsible for overseeing the City's compliance with the Public Records Act Rules, as required by RCW 42.56.580.

F. "Public Records Request Log" means a separate electronic log maintained by the Officer and by each City department, cataloguing all records requests the department has received.

G. "Public Records Request Queue" means a publicly accessible list of all pending and active Category 3, 4, and 5 public records requests.

2.90.030 Authority

A. The City Manager, who for purposes of this chapter shall also mean his or her designee, shall have overall authority to establish a process that will provide the public with full access to public records consistent with the Act. This authority shall include the duty to appoint a Public Records Officer and the duty to adopt Rules.

B. Two bodies are hereby established to assist the City Manager in carrying out the duties as required by the Act:

1. Public Disclosure Steering Team. This body shall:

- a. Provide guidance to the Public Disclosure Coordinating Team as needed.
- b. Conduct reviews when any requestor objects to the initial denial or partial denial of his or her public records request.
- c. Review and recommend to the City Manager proposed amendment(s) to the Rules.
- d. Review and recommend to the City Manager proposed changes in this Chapter.
- e. Add new members as needed or on an ad hoc basis.

2. Public Disclosure Coordinating Team. This body shall:

- a. Assist the Officer in managing the record request queues based on criteria set forth in the rules.
- b. Periodically meet for training and to discuss public records issues.
- c. Assist the Officer and City Manager in implementing the provisions of this chapter.

C. City employee responsibilities:

1. All City employees are responsible for appropriately maintaining public records and assisting in identifying and locating records in response to public records requests in addition to their primary assigned duties.
2. The City will provide training to those City employees for whom responding to records request is among their primary assigned duties and to those City employees who are likely to deal with the public regarding records requests.
3. 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.

2.90.040 Rules

A. The City Manager, in consultation with the Public Disclosure Steering Team (“the steering team”), shall adopt and publish administrative rules (“the Rules”) governing the processes by which the public may request public records and the city shall respond to such requests.

B. The Officer shall make the Rules readily available to the public for inspection and copying at Vancouver City Hall ("city hall") and in electronic form on the City's website.

These Rules shall be posted on the City's website.

C. These rules shall contain at a minimum:

1. A description of City services offered in connection with public records requests.
2. The designation and contact information of a Public Records Officer who shall serve as the primary point of contact for all public records requests.
3. The Officer's responsibilities under the act.
4. The hours and locations available for inspecting public records on City premises.
5. Procedures the City shall observe for making, responding to, inspecting, and copying public requests.
6. Procedures whereby the City shall ensure timely action on all public records requests.
7. A list of laws in addition to the Act that exempt or prohibit the disclosure of public records held by the City.
8. A list of definitions related to the Act.

2.90.050 Organization of Records

The Officer may use the City's official website to handle many common public records request issues, including but not limited to:

A. The City will post commonly requested documents and certain other records on its website. 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.

B. The City will maintain a separate page on its website that shall include the queues and record request logs and 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.

C. The City website will also provide guidance and information to the public for making records requests electronically through the website.

D. The City website will allow requestors the option of using online request forms for requesting records and submitting those requests electronically. This will not affect the City's obligation to honor requests submitted in writing.

2.90.060 Processing Requests

A. Categories:

1. The Officer and, when necessary, the Public Disclosure Coordinating Team ("the Coordinating Team") shall gauge the size of each public records request, and thereafter categorize the request into categories, each of increasing scope and complexity.
2. The methods for making this assessment shall be set forth in the Rules.

B. Public Records Request Log:

1. Each department shall maintain a separate electronic Public Records Request Log ("the Log") to catalogue all public records requests that department receives.
2. The Officer shall maintain a regularly updated Citywide records request log and shall have access to each department's log.

C. Public Records Request Queues:

1. Public records requests shall be maintained and tracked in Public Records Request Queues ("the queue").
2. The queues shall identify the status of public records requests as "pending," "active," or "completed."
3. Responding to public records is not always a sequential process. Public records requests will initially be entered in the respective queues in the chronological order in which they are received by the City. Thereafter, the Officer and the Coordinating Team will manage the active queues by responding to requests in accordance with the Rules.

D. Communications with requestors:

1. The City will make reasonable efforts to provide requestors with accurate and reasonable estimates of how long it will take to provide records that are responsive to a public records request.

2. If the City learns that additional time is needed to respond to the 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 a revised timeframe for records delivery.

2.90.070 Reviewing Denial of Requests

A. The Act and the Rules shall be interpreted in favor of full disclosure as provided by law.

B. In the event that a request is denied in whole or in part, aggrieved requestors have the following remedies:

1. Administrative review. The Rules shall provide methods for obtaining internal administrative review of public record request denials by City administrators.
2. Judicial Review. Pursuant to RCW 42.56.660, nothing in the Rules shall preclude any requestor from obtaining court review of denials at the conclusion of two business days after the City's initial denial, regardless of any administrative appeals that the requestor might have made to the City itself for internal review.

2.90.080 Costs of Producing Public Records

A. Unless otherwise provided by law, there is no fee for merely inspecting public records on City premises.

B. The Officer shall have the authority to establish and subsequently adjust the costs of copying or otherwise providing a requestor with public records in any format or medium.

C. Costs for producing public records shall reflect the fair commercial value of the format or medium whereby records are transmitting, while upholding the Act and the Rules' mandate to provide full public disclosure whenever possible.

2.90.090 Oversight

A. Public records performance report. No later than January 31 of each year, the City Manager will submit to the City Council a report on the City's performance in responding to public records requests during the preceding year. The report shall include, at a minimum:

1. The number of open public records requests (the size of the queue) at the beginning of the reporting period;
2. The number of public records requests received in the period, by Category;

3. The number of public records request closed in the period, by Category;
4. The number of open public records requests (the size of the queue) at the end of the reporting period.
5. Any other information that the City Manager deems appropriate.

B. Resources devoted to public records disclosure:

1. Starting with the 2017-2018 biennial budget process, the City Council shall biennially determine and establish the amount of resources to be allocated to public records disclosure. The City Council may reevaluate its determination as part of the mid-year budget adjustment and modify the resource allocation.

SUMMARY

ORDINANCE NO. M-4083

AN ORDINANCE relating to regulating compliance with the requirements of RCW 42.56, the Public Records Act ("the Act"); adding a new chapter to the Vancouver Municipal Code (VMC) to be codified at Chapter 2.90 VMC; providing for the adoption of rules, organization of public records, categories of records requests, records requests logs and queues, performance reports, resources devoted to public records disclosure, reviewing denials of requests and costs of disclosing records; and providing for savings, severability, and an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).

07/21/14

RESOLUTION NO. M-3829

A RESOLUTION of the City Council of the City of Vancouver, Washington, relating to compliance with the Public Records Act; specifically adopting Public Records Act Rules; issuing a formal order regarding maintaining a central index and ordering publication of this Resolution and the Public Records Act Rules.

WHEREAS, RCW Sections 42.56.040, 42.56.070, and 42.56.100 of the Public Records Act ("the Act") collectively require that state and local agencies provide, publish, and prominently display certain information, exemptions, and rules governing disclosure of public records; and

WHEREAS, the City of Vancouver ("the City") is a local agency as defined in the Act and must therefore comply with its provisions; and

WHEREAS, the attached Public Records Act Rules ("the Rules") fulfill one of these requirements and were developed utilizing in part the Attorney General's Office advisory Model Rules for disclosure of public records (WAC 22-14); and

WHEREAS, RCW 42.56.070(3) requires an agency to maintain a central index of records unless the local agency determines that it would be unduly burdensome;

NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF VANCOUVER:

Section 1. The Rules attached as Exhibit A are adopted as the rules the City will follow in handling public records requests, and the City Manager is hereby authorized to adopt and/or


amend the Rules as necessary to remain in compliance with evolving law governing the handling of public records requests. All amendments to the Rules shall be reported to the City Council.

Section 2. The City comprises ten (10) departments, with divisions and subdivisions serving more than 165,000 citizens. The different departments 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, computer systems, and databases, it is unduly burdensome to maintain a central index of these records. THEREFORE, the City Council finds that maintaining the index required by RCW 42.56.070(3) would be unduly burdensome and formally orders that under RCW 42.56.070(d) the City need not maintain such an index so long as all other City indexes are available for public inspection and copying in conformity with applicable law.

Section 3. The City Clerk is directed to publish this Resolution and the availability of the Rules in The Columbian, post and maintain the Rules on the City's website, and make the Rules available for inspection and copying at City Hall.

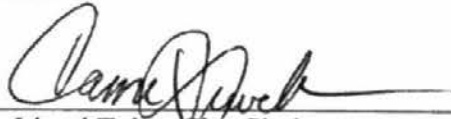
Section 4. This Resolution shall be effective immediately upon adoption.

ADOPTED at regular session of the council of the city of Vancouver, this 21st
day of July, 2014.



Timothy D. Leavitt, Mayor


Attest:



R. Lloyd Tyler, City Clerk

By: Carrie Lewellen, Deputy City Clerk

Approved as to form:



Ted H. Gathe, City Attorney