



King County
Metropolitan King County Council
Law, Justice, Health and Human Services Committee

STAFF REPORT

Agenda Item:	8	Name:	Nick Wagner
Proposed No.:	2011-0277	Date:	June 14, 2011
Invited:	Kelli Williams, Public Records Officer, Department of Executive Services		

SUBJECT

A proposed ordinance amending the county's public records ordinance.

SUMMARY

Proposed Ordinance 2011-0277 (pp. 3-10 of these materials) would amend the county's public records ordinance, KCC Chapter 2.12 (pp. 13-20 of these materials), as follows:

1. To promote openness in county government, the ordinance would be amended to provide that public records officers responding to public disclosure requests should inform the requestor about other agencies believed to have responsive records; and
2. To facilitate the Council's oversight of county agency responses to public disclosure requests, without unduly burdening the county's public records officers, the information to be included in the annual reports submitted by each agency to the county council would be revised and supplemented as set forth in the ordinance.

BACKGROUND

Ordinance 16679, adopted by the Council on 12 October 2009, amended KCC Chapter 2.12 ("Maintenance of Permanent Records") in response to the Washington Attorney General's model rules and comments on public records compliance (WAC 44-14). Chapter 2.12 governs the procedures for county agencies to follow in responding to public disclosure requests.

In recent meetings, this committee has been reviewing county agency compliance with Ordinance 16679. That review has identified possible amendments to the ordinance that might further advance the Council's goal of making the public disclosure process as open and efficient as possible. Those amendments are contained in Proposed Ordinance 2011-0277 and are described below.

PROPOSED ORDINANCE

A. Notice of Records in Other Agencies

Section 1 of Proposed Ordinance 2011-0277 (pp. 4-7 of these materials) would provide that a public records officer who believes that another county agency is likely to have records responsive to a particular public disclosure request should so inform the requestor and provide the requestor with the name and contact information of the public records officer of each such agency.

The amendment explicitly states that: (1) the officer is not required to review records or otherwise investigate for the purpose of determining whether other agencies are likely to have additional records that are responsive to the request; and (2) the amendment is intended to enhance the public's access to public records, not to impose any legal obligation on county agencies beyond the obligations imposed by state law.

B. Improved Disclosure Reports By County Agencies

To give the Council a more complete picture of agency performance in responding to public disclosure requests, Section 2 of Proposed Ordinance 2011-0277 (pp. 7-9 of these materials) would require each agency to include the following additional information concerning each disclosure request in the agency's annual report to the Council:

1. Whether the agency complied with the requirement to make an initial response to the disclosure request within five days; and
2. If the agency took more than six months to close a request (or if a request remains open more than six months from when it was received), an explanation of why the request was not closed more promptly.

The amendment would also require that the agency annual reports be submitted as electronic spreadsheets to make them easier to review and analyze.

AMENDMENT

Amendment 1 (p. 11 of these materials) would make two technical changes in the proposed ordinance. No substantive change is intended.

ATTACHMENTS

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| 3. K.C.C. Chapter 2.12 | 13 |



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

June 9, 2011

Ordinance

Proposed No. 2011-0277.1

Sponsors Ferguson

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AN ORDINANCE relating to public records; providing guidance to public records officers regarding notice of agencies believed to have records responsive to public disclosure requests; revising the requirements for county agency reports about agency responses to public disclosure requests; and amending Ordinance 16679, Section 22, and K.C.C. 2.12.250, and Ordinance 16679, Section 27, and K.C.C. 2.12.300.

PREAMBLE:

To promote openness in county government, public records officers responding to public disclosure requests should inform the requestor about other agencies believed to have additional responsive records.

To facilitate the county council’s oversight of county agency responses to public disclosure requests, without unduly burdening the county’s public records officers, the information to be included in the annual reports submitted by each agency to the county council is to be revised and supplemented as set forth in this ordinance.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

19 SECTION 1. Ordinance 16679, Section 22, and K.C.C. 2.12.250 are each hereby
20 amended as follows:

21 A. Each agency shall provide full access to public records that are not exempt
22 from disclosure under applicable law, protect records from damage or disorganization,
23 prevent excessive interference with other essential functions of the agency, provide
24 fullest assistance to requestors and provide the most-timely possible action on public
25 records requests.

26 B. The public records officer or designee shall process requests in the order
27 allowing the most requests to be processed in the most efficient manner; in order to
28 process requests as efficiently as possible, smaller requests may be processed before
29 substantially larger requests that were received earlier.

30 C.1. Within five business days of receipt of the request, the public records officer
31 shall do one or more of the following:

- 32 a. make the records available to the requestor for inspection or copying;
- 33 b. if copies are requested and payment of a deposit for the copies, if any, is
34 made or terms of payment are agreed upon, send the copies to the requestor;
- 35 c. provide to the requestor a reasonable estimate of when records will be
36 available;
- 37 d. if the request is unclear or does not sufficiently identify the requested
38 records, request clarification from the requestor. The clarification may be requested and
39 provided by telephone, in which case the public records officer shall make a written
40 record of the clarification. The public records officer or designee may revise the estimate

41 of when records will be available. If the requestor fails to clarify the request, the agency
42 need not respond to it; or

43 e. deny the request and notify the requestor of the denial. Denials of requests
44 shall be accompanied by a written statement of the specific reasons therefor.

45 2. Additional time required to respond to a request may be based upon the need
46 to clarify the intent of the request, to locate and assemble the information requested, to
47 notify third persons or agencies affected by the request or to determine whether any of
48 the information requested is exempt and that a denial should be made as to all or part of
49 the request.

50 D. In the event that the requested records contain information that affects other
51 agencies or third persons, the public records officer may, before providing the records,
52 give notice to those persons in accordance with RCW 42.56.540. The notice shall
53 include a copy of the request.

54 E. Some records are exempt from disclosure, in whole or in part. If the agency
55 believes that a record or any part of a record is exempt from disclosure and should be
56 withheld, the public records officer shall provide to the requestor a writing identifying the
57 record or portion withheld, the specific exemption relied upon and the authority for the
58 exemption, and briefly explaining how the exemption applies to the record or portion
59 withheld, including enough information for a requestor to make a threshold determination
60 of whether the claimed exemption is proper. If only a portion of a record is exempt from
61 disclosure, but the remainder is not exempt, the public records officer shall redact the
62 exempt portions and provide the nonexempt portions.

63 F.1. The agency shall promptly provide space to inspect public records except
64 when and to the extent that it would cause excessive interference with other essential
65 functions of the agency or unreasonably disrupt agency operations. No member of the
66 public may remove a document from the viewing area or disassemble or alter any
67 document. The requestor shall indicate which documents the requestor wishes the
68 agency to copy.

69 2. The requestor must claim or review the assembled records within thirty days
70 of the agency's notification to the requestor that the records are available for inspection or
71 copying. The agency shall notify the requestor in writing of this requirement and inform
72 the requestor that the requestor should contact the agency to make arrangements to claim
73 or review the records. If the requestor or a representative of the requestor fails to claim
74 or review the records within the time prescribed in this subsection F.2. or make other
75 arrangements, the agency may close the request. Other public records requests may be
76 processed ahead of a subsequent request by the same person for the same or almost
77 identical records, which may be processed as a new request.

78 G. After inspection is complete, the public records officer or designee shall make
79 the requested copies or arrange for copying.

80 H. When the request is for a large number of records, the public records officer or
81 designee shall provide access for inspection and copying in installments, if the public
82 records officer or designee reasonably determines that it would be practical to provide the
83 records in that way. If, within thirty days after notification that the records are available
84 for inspection or copying under subsection C., D. or E. of this section, the requestor fails
85 to inspect the entire set of records or one or more of the installments, as applicable, the

86 public records officer or designee may stop searching for the remaining records and close
87 the request. The requestor shall be notified in writing of this action.

88 I. When the requestor either withdraws the request or fails to fulfill his or her
89 obligations to inspect the records or pay the deposit or final payment for the requested
90 copies, the public records officer shall close the request and indicate to the requestor that
91 the agency has closed the request.

92 J. If, after the agency has informed the requestor that the agency has provided all
93 available records, the agency becomes aware of additional responsive documents existing
94 at the time of the request, the agency shall promptly inform the requestor of the additional
95 documents and provide the documents on an expedited basis.

96 K. If a public records officer or designee responding to a public disclosure
97 request believes that one or more other agencies are likely to have additional records that
98 are responsive to the request, he or she should, in writing, so inform the requestor and
99 provide the requestor with the name and contact information of the public records officer
100 of each such agency, including the officer's title, office phone number, office address,
101 and email address. The public records officer is not required to review records or
102 otherwise investigate for the purpose of determining whether other agencies are likely to
103 have additional records that are responsive to the request. This subsection is intended to
104 enhance the public's access to public records, not to impose any legal obligation on
105 agencies beyond those imposed by chapter 42.56 RCW.

106 SECTION 2. Ordinance 16679, Section 27, and K.C.C. 2.12.300 are each hereby
107 amended to read as follows:

108 A.1. No later than April 1 of each year, the public records officer of each county
109 agency shall submit to the county council a report on the agency's performance in
110 responding to public records requests during the preceding calendar year. The report
111 shall include, at a minimum, a listing of all requests that either were closed during the
112 preceding calendar or remained open at the end of the preceding calendar year, including,
113 for each such request:

- 114 a. the name of the requestor;
- 115 b. a summary of the request;
- 116 c. the date the request was received; ~~and~~
- 117 d. whether the five-day response requirement in K.C.C. section 2.12.250.C.1
118 was met;
- 119 e. the date the request was closed, if it has been closed; and
- 120 f. for each closed request for which more than six months elapsed from the
121 date the request was received until the date the request was closed, and for each open
122 request that had been open for more than six months at the end of the preceding calendar
123 year, an explanation of why the request was not closed more promptly.

- 124 g. For the purpose of this section, a request is closed if the agency: has
125 provided all responsive records, has indicated that there are no responsive records or that
126 all of the responsive records are exempt from disclosure, has provided records and
127 indicated that no additional records will be produced because the remaining records are
128 exempt from disclosure, or if the request is closed pursuant to KCC 2.12.250(F)(H) or (I).

129 2. A paper original and an electronic copy of the report shall be filed with the
130 clerk of the council, who shall email the electronic copy to all councilmembers. In the

131 electronic copy of the report, the listing of public records requests shall be in the form of
132 an electronic spreadsheet.

133 B. On January 15 and July 15 of each year, the county prosecuting attorney shall
134 submit to the county council a report listing all pending lawsuits alleging that the county
135 has violated chapter 42.56 RCW, including the name of the case, the court in which it
136 was filed, the date on which it was filed, the case number, a brief summary of the claims
137 made against the county and the current case status. A paper original and an electronic
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139 copy of the report shall be filed with the clerk of the council, who shall email the
140 electronic copy to all councilmembers.
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KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Gossett, Chair

ATTEST:

Anne Noris, Clerk of the Council

APPROVED this ____ day of _____, _____.

Dow Constantine, County Executive

Attachments: None

June 14, 2011

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nw

Sponsor: Ferguson

Proposed No.: 2011-0277

1 **AMENDMENT TO PROPOSED ORDINANCE 2011-0277, VERSION 1**

2 On page 5, in line 96, strike “disclosure” and insert “records”

3 On page 5, in line 97, strike “additional”

4 **EFFECT: The proposed changes are technical. The change in line 96 conforms to**

5 **usage in the state code. The change in line 97 removes an unintended implication**

6 **that some responsive records have been identified.**

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Chapter 2.12 MAINTENANCE OF PERMANENT RECORDS

Sections:

- 2.12.005 Definitions.
- 2.12.010 Preparation of permanent records of council proceedings.
- 2.12.020 Transfer of council and commissioners records to archives.
- 2.12.035 Archives and records management program - archives as official repository.
- 2.12.040 Records retention and public disclosure manuals.
- 2.12.060 Retention of public records.
- 2.12.070 Budget - fee for copies - electronic copy on website.
- 2.12.080 Code - sale of printed copies - electronic copy on web site.
- 2.12.120 Recording services - fees.
- 2.12.130 Non-statutorily required reports – Fees.
- 2.12.170 Enhanced program for preserving, copying, maintaining and indexing documents - fee.
- 2.12.180 Agency index of records, reports and manuals required.
- 2.12.210 Public records - rules adopted - clarification by agencies - King County as political subdivision
- 2.12.220 Records - authority and purpose.
- 2.12.200 Records - authority and purpose.
- 2.12.230 Public records - public records officer - contact information - requests to each agency - assistance - education and training - minimize interference and disruption.
- 2.12.240 Public Records - availability of public records - hours for inspection - index - organization requests.
- 2.12.250 Public records - processing requests - general - providing full access - process upon request - notice to affected parties - exempt records - inspection - copies - installments closing withdrawn or abandoned request - later-discovered documents.
- 2.12.260 Public records - processing electronic records - request - provision - customized access.
- 2.12.270 Public records - exemptions.
- 2.12.280 Public records - fees - payment.
- 2.12.290 Public records - review of denial - petition - process.

2.12.005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A.1. "Agency" means:

- a. the executive branch;
- b. the legislative branch;
- c. the department of public safety;
- d. the department of assessments;
- e. the office of the prosecuting attorney;
- f. the department of elections;
- g. the forecast council and office of economic and financial analysis;
- h. the board of appeals; and
- i. the personnel board.

2. "Agency" does not include the superior court or the district court.

B. "Archival records" means those designated as having continuing historical value by the Washington State Archives or the King County archivist.

C. "County records" means any document, including any paper, correspondence, completed form, bound records book, photograph, film, sound or video recording, map, drawing, machine-readable material or other document, regardless of physical form or characteristics, and including copies thereof, that has

been made by or received by any agency of King County in connection with the transaction of public business.

D. "Executive branch" means the executive branch as defined in the county charter, but excluding the department of public safety, the department of assessments and the department of elections.

E. "Legislative branch" means the legislative branch as defined in the county charter and as provided by ordinance, including, but not limited to, the county council and the offices of the county auditor, citizen complaints, the hearing examiner and law enforcement oversight.

F. "Official record" means a public record that an agency is required by law to accept or maintain, including, but not limited to, recorded documents, judgments, licenses, vital statistics and property records.

G. "Public record" includes 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.

H. "Public records officer" means the person appointed by the agency in accordance with K.C.C. 2.12.230.A.. (Ord. 16679 § 1, 2009: Ord. 10698 § 3, 1993).

2.12.010 Preparation of permanent records of council proceedings. The clerk of the council is responsible for the preparation of permanent records of the council proceedings. (Ord. 16679 § 2, 2009: Ord. 695 § 1, 1971).

2.12.020 Transfer of council and commissioners records to archives. All records of the King County council and records of the King County commissioners, including office files and memoranda, shall be transferred to the King County archives for permanent retention in accordance with the applicable records retention schedules. (Ord. 16679 § 3, 2009: Ord. 15971 § 27, 2007: Ord. 10698 § 1, 1993: Ord. 4714 § 1, 1979: Ord. 695 § 2, 1971).

2.12.035 Archives and records management program - archives as official repository.

A. An archives and records management program is hereby established in the records and licensing services division of the department of executive services. The archives and records management program shall be responsible for:

1. Maintaining a facility for storage of inactive and archival records;
2. Establishing standards for records storage media to ensure continued public access to public records during their legal retention period and for preservation of archival records;
3. Maintaining records retention schedules of current records index as set forth in chapter 42.56 RCW. A directory of historical, noncurrent or obsolete records designated archival shall serve as an index to King County administrative history, as provided by chapter 40.14 RCW; and
4. Preserving and providing public access to the archival records of King County.

B. The King County archives is designated as the official repository of the county's archival records. The King County archives may transfer the county's archival records to the Washington state archives for ongoing preservation. (Ord. 16679 § 4, 2009: Ord. 15971 § 28, 2007: Ord. 10698 § 2, 1993).

2.12.040 Records retention and public disclosure manuals. The department of executive services is responsible for maintaining records retention and public disclosure manuals. The manuals shall include each agency's record retention schedules. The manuals shall be made available to the public by electronic means. (Ord. 16679 § 5, 2009: Ord. 12485 § 4, 1996).

2.12.060 Retention of public records. Retention of public records, including official records, shall be in accordance with approved records retention schedules established pursuant to RCW 40.14.070. In accordance with those records retention schedules, the archives and records management program shall provide for the legal retention and disposition of public records, including identification of archival records. (Ord. 16679 § 7, 2009: Ord. 10698 § 5, 1993: Ord. 3606 § 4, 1978).

2.12.070 Budget - fee for copies - electronic copy on website. Copies of the annual King County budget shall be available from the office of performance, strategy and budget upon payment of five dollars for each copy, which fee shall be paid to the King County treasurer. The county executive shall

make available to the public on the county's website, at no charge, an electronic copy of the budget ordinance. (Ord. 16960 § 7, 2010: Ord. 16679 § 8, 2009: Ord. 134 (part), 1969).

2.12.080 Code - sale of printed copies - electronic copy on web site. The records and licensing services division may sell printed copies of the King County Code to subscribers other than county agencies or departments for a fee of three hundred dollars plus an additional charge of fifteen cents per page for quarterly supplements. The clerk of the council shall make available to the public on the county's website at no charge an electronic version of the code, updated at least annually. (Ord. 16679 § 9, 2009: Ord. 15971 § 29, 2007: Ord. 14520 § 2, 2002: Ord. 14199 § 10, 2001: Ord. 5962 § 2, 1982).

2.12.120 Recording services - fees. The manager of the records and licensing services division shall charge such fees for the provision of recording services as are provided for county auditors in chapters 36.18 and 36.22 RCW and RCW 58.24.070. In addition, the following specific fees apply:

A. Record of survey. As authorized under RCW 58.09.100, for land surveys, which shall be eighteen by twenty-four inches or less in size, the fee schedule is:

1. Basic fee for first page \$25.00
2. Each additional page \$5.00

B. For short plats and boundary line adjustments, legal size or smaller, the manager of the records and licensing services division shall charge such fees as are provided for county auditors in chapter 36.18 RCW. For short plats and boundary line adjustments, eighteen by twenty-four inches or less in size, the fee schedule shall be the same as record of survey under subsection A. of this section.

C. The record of monument shall be filed without charge on the standard form prescribed by the state Department of Natural Resources, Bureau of Surveys and Maps.

D. As authorized under RCW 64.34.202, to reserve the right to use a specific name for a condominium, the fee is fifty dollars. (Ord. 16679 § 13, 2009: Ord. 15971 § 30, 2007: Ord. 14764 § 1, 2003: Ord. 14457 § 1, 2002: Ord. 14007 § 2, 2000: Ord. 13331 § 2, 1998: Ord. 9168 § 3, 1989: Ord. 1660 §§ 1-2, 1973).

2.12.130 Non-statutorily required reports – Fees.

A. The purpose of this section is to authorize departments of King County government to assess service fees for reimbursement of actual costs incurred by the county for the research, production and provision of computer print-out pages of requested reports which are not specifically required by statute to be provided.

B. This section shall apply to the provision of non-statutorily required reports to any party other than a King County agency. The cost to any party other than a King County agent shall be the actual unit cost per print-out page or part thereof. This cost shall be based on data maintenance and input, research, and production time.

C. Departments providing non-statutorily required reports shall establish a procedure for collection of these fees.

D. This section shall not apply to infrequent provision of non-statutorily required reports if the collection of service fees is determined by a department to be cost ineffective. (Ord. 8068, 1987).

2.12.170 Enhanced program for preserving, copying, maintaining and indexing documents - fee.

A. There is established within the records and licensing services division an enhanced program for preserving, copying, maintaining and indexing documents officially recorded and filed with the county that require preservation in the public interest against age and environmental degradation before they are irreparably damaged. The program shall take advantage of the latest technology for records preservation to include, but not limited to, photomicrographic and computerized electronic digital storage methods.

B. To support the program, the manager of the records and licensing services division shall collect the fee authorized under RCW 36.22.170 for each document recorded in the recorder's office, which shall be in addition to any other authorized fee or charge. The fee shall be used for only those purposes outlined by state law as amended, that is, to provide for the installation and maintenance of an improved system for copying, preserving and indexing documents recorded in King County and for the preservation of those records deemed archival. (Ord. 16679 § 15, 2009: Ord. 15971 § 32, 2007: Ord. 9168 § 2, 1989).

2.12.180 Agency index of records, reports and manuals required.

A. Each agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after June 30, 1972:

1. Final opinions, including concurring and dissenting opinions, as well as orders made in the adjudication of cases;
2. Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;
3. Administrative staff manuals and instructions to staff that affect a member of the public;
4. Planning policies and goals and interim and final planning decisions;
5. 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 public employees or others; and
6. Correspondence, and materials referred to in the correspondence either prepared or received by the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, in which the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government or any private party.

B. An agency need not maintain such an index if to do so would be unduly burdensome, but it shall in that event:

1. Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and
2. Make available for public inspection and copying all indexes maintained for agency use.

C. An agency's record retention schedule approved in accordance with chapter 40.14 RCW may serve as an index for the purposes of this section. (Ord. 14266 § 6, 2001: Ord. 2165 § 4, 1974. Formerly K.C.C. 2.98.040).

2.12.210 Public records - rules adopted - clarification by agencies - King County as political subdivision.

A. The county adopts the rules on records in K.C.C. 2.12.220, 2.12.230, 2.12.240, 2.12.250, 2.12.260, 2.12.270 and 2.12.280, which are based on chapter 44-14 WAC. However, chapter 44-14 WAC and its comments are not adopted.

B. These rules may also be further clarified and implemented by each agency to the extent that the clarifications do not conflict with state law.

C. King County is a political subdivision of the state of Washington and is a home rule charter county composed of multiple agencies. (Ord. 16679 § 18, 2009).

2.12.220 Public records - authority and purpose.

A. RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. Chapter 42.56 RCW defines "public record" to include 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 the agency.

B. The purpose of this chapter is to establish the procedures the county will follow in order to provide full access to public records that are not exempt from disclosure under applicable law. This chapter provides information to persons wishing to request access to public records of the county and establish processes for both requestors and county staff that are designed to best assist members of the public in obtaining such access.

C. The purpose of chapter 42.56 RCW is to provide the public full access to records concerning the conduct of government that are not exempt from disclosure under applicable law, mindful of individuals' privacy rights and the desirability of the efficient administration of government. Chapter 42.56 RCW and this chapter will be interpreted in favor of disclosure. In carrying out its responsibilities under chapter 42.56 RCW, the county will be guided by the provisions of the act describing its purposes and interpretation. (Ord. 16679 § 19, 2009).

2.12.230 Public records - public records officer - contact information - requests to each agency - assistance - education and training - minimize interference and disruption.

A. Each agency shall appoint a public records officer and shall identify the officer in a way reasonably calculated to provide notice to the public, including posting, at the agency's public service counters, if any, and on its website, the officer's name, office address, telephone number, fax number and email address. Each agency shall include on its website home page a link to the web page on which the agency provides this contact information and instructions on how to make a public records request.

B. Any person wishing to request access to public records of an agency, or seeking assistance in making such a request, should contact the public records officer of the agency. A request to one agency does not constitute a request to any other agency. A separate request must be made to each agency from which access to public records is requested or assistance in making such a request is sought.

C. The public records officer, or the public records officer's designee, for each agency shall oversee compliance by the agency with chapter 42.56 RCW. The agency shall:

1. Provide the fullest assistance to requestors;
2. Provide education and training within an agency to ensure that public records are protected from damage or disorganization and are promptly produced for inspection and copying upon request to the extent required by law; and
3. Prevent fulfillment of public records requests from causing excessive interference with essential functions of the agency or unreasonably disrupting the operations of the agency. (Ord. 16679 § 20, 2009).

2.12.240 Public Records - availability of public records - hours for inspection - index - organization - requests.

A. Public records are available for inspection and copying during normal business hours of the agency, or department thereof. Original records must be inspected at the offices of the agency, unless the agency provides an alternative.

B. An index of public records of each agency is available through the archives and records management program established under K.C.C. 2.12.035. The index may be accessed online at the archive and records management program's website.

C.1. An agency shall maintain its records in a reasonably organized manner. An agency should take reasonable actions to protect records from damage and disorganization.

2. A requestor shall not take an agency's records from the agency's offices.

3. A variety of records is available on the county website at www.kingcounty.gov. Requestors are encouraged to view the documents available on the website before submitting a records request.

D.1. A person wishing to inspect or copy public records of an agency is encouraged to make the request in writing on the agency's request form, which shall be created and maintained by the agency's public records officer and made available on the agency's website. The agency request form shall:

- a. recite that inspection of records is free, provide the per-page charge for standard photocopies and indicate that the requestor may inspect the records, receive a copy of the records or inspect the records first and then select records to copy;
- b. prompt the requestor to provide contact information including name, phone number, mailing address and email address if available;
- c. prompt the requestor to identify the public records adequately for the public records officer or designee to locate the records; and
- d. prompt the requestor to provide the date and time of day of the request.

2. If a request is made orally, unless it is promptly fulfilled, the public records officer shall provide written confirmation of the request to the requester.

3. If the requestor wishes to have copies of the records made instead of simply inspecting them, the requestor should so indicate and make arrangements to pay for copies of the records or a deposit. Charges for copies shall be made in accordance with RCW 42.56.070. (Ord. 16679 § 21, 2009).

2.12.250 Public records - processing requests - general - providing full access - process upon request - notice to affected parties - exempt records - inspection - copies - installments - closing withdrawn or abandoned request - later-discovered documents.

A. Each agency shall provide full access to public records that are not exempt from disclosure under applicable law, protect records from damage or disorganization, prevent excessive interference

with other essential functions of the agency, provide fullest assistance to requestors and provide the most-timely possible action on public records requests.

B. The public records officer or designee shall process requests in the order allowing the most requests to be processed in the most efficient manner; in order to process requests as efficiently as possible, smaller requests may be processed before substantially larger requests that were received earlier.

C.1. Within five business days of receipt of the request, the public records officer shall do one or more of the following:

- a. make the records available to the requestor for inspection or copying;
- b. if copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- c. provide to the requestor a reasonable estimate of when records will be available;
- d. if the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. The clarification may be requested and provided by telephone, in which case the public records officer shall make a written record of the clarification. The public records officer or designee may revise the estimate of when records will be available. If the requestor fails to clarify the request, the agency need not respond to it; or
- e. deny the request and notify the requestor of the denial. Denials of requests shall be accompanied by a written statement of the specific reasons therefor.

2. Additional time required 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 and that a denial should be made as to all or part of the request.

D. In the event that the requested records contain information that affects other agencies or third persons, the public records officer may, before providing the records, give notice to those persons in accordance with RCW 42.56.540. The notice shall include a copy of the request.

E. Some records are exempt from disclosure, in whole or in part. If the agency believes that a record or any part of a record is exempt from disclosure and should be withheld, the public records officer shall provide to the requestor a writing identifying the record or portion withheld, the specific exemption relied upon and the authority for the exemption, and briefly explaining how the exemption applies to the record or portion withheld, including enough information for a requestor to make a threshold determination of whether the claimed exemption is proper. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer shall redact the exempt portions and provide the nonexempt portions.

F.1. The agency shall promptly provide space to inspect public records except when and to the extent that it would cause excessive interference with other essential functions of the agency or unreasonably disrupt agency operations. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents the requestor wishes the agency to copy.

2. The requestor must claim or review the assembled records within thirty days of the agency's notification to the requestor that the records are available for inspection or copying. The agency shall notify the requestor in writing of this requirement and inform the requestor that the requestor should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the time prescribed in this subsection F.2. or make other arrangements, the agency may close the request. Other public records requests may be processed ahead of a subsequent request by the same person for the same or almost identical records, which may be processed as a new request.

G. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

H. When the request is for a large number of records, the public records officer or designee shall provide access for inspection and copying in installments, if the public records officer or designee reasonably determines that it would be practical to provide the records in that way. If, within thirty days after notification that the records are available for inspection or copying under subsection C., D. or E. of this section, the requestor fails to inspect the entire set of records or one or more of the installments, as applicable, the public records officer or designee may stop searching for the remaining records and close the request. The requestor shall be notified in writing of this action.

I. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer shall close the request and indicate to the requestor that the agency has closed the request.

J. If, after the agency has informed the requestor that the agency has provided all available records, the agency becomes aware of additional responsive documents existing at the time of the request, the agency shall promptly inform the requestor of the additional documents and provide the documents on an expedited basis. (Ord. 16679 § 22, 2009).

2.12.260 Public records - processing electronic records - request - provision - customized access.

A. The process for requesting electronic public records is the same as for requesting paper public records.

B. When a requestor requests records in an electronic format, the agency's public records officer shall provide the nonexempt records or portions of those records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by K.C.C. 2.12.280.B.

C. The agency may provide customized access under RCW 43.105.280 if the record is not reasonably locatable or not reasonably translatable into the format requested. The agency may charge a fee consistent with RCW 43.105.280 for the customized access. (Ord. 16679 § 23, 2009).

2.12.270 Public records - exemptions.

A. The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any other statute exempts or prohibits disclosure. Exemptions outside the Public Records Act that restrict the availability of some documents held by the county or its agencies for inspection and copying include, but are not limited to, those set forth for counties and municipalities in the most-recent list of other such statutes posted on the website of the Municipal Research and Services Center of Washington, which is, as of November 1, 2009, www.mrsc.org/Publications/pr06.pdf, Appendix C, and which is incorporated in this chapter by reference.

B. King County and its agencies are prohibited by statute from disclosing lists of individuals for commercial purposes. (Ord. 16679 § 24, 2009).

2.12.280 Public records - fees - payment.

A.1. There is no fee for inspecting public records. A requestor may obtain copies, for which charges shall be made in accordance with RCW 42.56.070 or other applicable law. For certified copies, eight and one-half inches by fourteen inches or smaller, for the first page the fee shall be two dollars, and for each additional page the fee shall be one dollar.

2. Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The agency shall not charge sales tax when it makes copies of public records.

B.1. The cost of electronic copies of records shall be the actual cost of the medium used.

2. If the agency incurs a cost of transferring a paper record to electronic form, that cost may be charged.

3. If the agency uses an outside vendor, the vendor's charge to the agency, including applicable sales tax, shall be passed on to the requestor.

C. An agency may also charge actual costs of mailing, including the cost of the shipping container.

D. Payment for the costs under this section may be made to the agency or the agency's designee by cash, check or money order to the agency or its designee.

E. Charges for paper copies of official records shall be in accordance with fees set forth in applicable chapters of the RCW.

F. Charges for copies of material in the archival collection shall follow the guidelines of the Washington state Archives and WAC 434-690-080. (Ord. 16679 § 25, 2009).

2.12.290 Public records - review of denial - petition - process.

A. Any person who objects to the initial denial or partial denial of a public records request may petition in writing to the public records officer for a review of the decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer denying the request.

B. The public records officer shall promptly provide the petition and any other relevant information to the public records officer's supervisor or any other agency official designated by the agency to conduct the review. The reviewing officer shall review the decision and provide the requestor with a response.

C. Any person may obtain court review of the denial of a public records request made in accordance with RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal. (Ord. 16679 § 26, 2009).

2.12.300 Public records - performance reports - lawsuit reports.

A.1. No later than April 1 of each year, the public records officer of each county agency shall submit to the county council a report on the agency's performance in responding to public records requests during the preceding calendar year. The report shall include, at a minimum, a listing of all requests that either were closed during the preceding calendar or remained open at the end of the preceding calendar year, including, for each request:

- a. the name of the requestor;
- b. a summary of the request;
- c. the date the request was received; and
- d. the date the request was closed, if it has been closed.

2. A paper original and an electronic copy of the report shall be filed with the clerk of the council, who shall email the electronic copy to all councilmembers.

B. On January 15 and July 15 of each year, the county prosecuting attorney shall submit to the county council a report listing all pending lawsuits alleging that the county has violated chapter 42.56 RCW, including the name of the case, the court in which it was filed, the date on which it was filed, the case number, a brief summary of the claims made against the county and the current case status. A paper original and an electronic copy of the report shall be filed with the clerk of the council, who shall email the electronic copy to all councilmembers. (Ord. 16679 § 27, 2009).