



King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item No.: 4	Date:	5 Oct 2009
Ordinance No.: 2009-0351	Prepared by:	Nick Wagner

SUMMARY

Chapter 2.12 of the King County Code is the chapter related to public records. Proposed Ordinance 2009-0351 (Attachment 1, pp. 7-26 of these materials) would add new sections to chapter 2.12 in response to the Washington Attorney General's model rules and comments on public records compliance. The proposed ordinance would also clarify and make technical changes to chapter 2.12.

This is the fourth time the proposed ordinance has come before the committee:

- On June 24 Council staff provided a high-level, introductory briefing on the ordinance.
- On July 15 the team that drafted the proposed ordinance briefed the committee on the history and highlights of the ordinance and responded to councilmembers' questions.
- On September 9 the Attorney General, Rob McKenna, together with Assistant Attorney General and Open Government Ombudsman Timothy D. Ford, appeared before the committee and testified in support of the proposed legislation.

Attachment 4 (pp. 71-76 of these materials) is a copy of the July 15 staff report (without attachments), which is provided as background.

STRIKING AMENDMENT

Council staff, working at the direction of the committee chair in conjunction with the work group that drafted the original proposed ordinance, have prepared Striking Amendment S1 (Attachment 2, pp. 27-48 of these materials). The amendment is primarily technical in nature, but also brings the proposed ordinance into closer conformity to the Attorney General's model rules and comments. Attachment 3 (pp. 49-71 of these materials) is a redline showing those changes in red.

The main substantive changes that would be made by the striking amendment are:

- The amendment would require county agencies to develop and use a standard disclosure request form and would specify certain minimum elements that the form

must contain. The purpose is to make it easier to submit a records request and to make sure the public records officer has the information necessary for processing the request.¹ (Section 21; *see* pp. 60-62 of these materials.)

- When records are withheld in whole or in part as being exempt from disclosure, the amendment would require that the response not only identify the legal basis for the claimed exemption, but also explain briefly how the exemption applies to the record or portion withheld, including enough information for a requestor to make a threshold determination of whether the exemption is proper.² (Section 22.E, *see* pp. 63-64 of these materials.)

The following is a section-by-section summary of the changes that would be made in Proposed Ordinance 2009-0351 by the striking amendment. (All page number references are to these materials.)

Section 1

The changes in Section 1 would clarify the definition of county “agency.” (*See* p. 50-51.)

Section 2

No change.

Section 3

Clarifying amendment: no substantive change.

Section 4

Clarifying amendment: no substantive change.

Section 5

Clarifying amendment: no substantive change.

Section 6

No change.

¹ The proposed language is drawn from the comments to the Attorney General’s model rules, which provide in part: “An agency should have a public records request form. An agency request form should ask the requestor whether he or she seeks to inspect the records, receive a copy of them, or to inspect the records first and then consider selecting records to copy. An agency request form should recite that inspection of records is free and provide the per-page charge for standard photocopies.” (WAC 44-14-03006).

² The suggested clarification is based on RCW 42.56.210(3) (“Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld”) and WAC 44-14-04004(4)(b) (“The brief explanation should provide enough information for a requestor to make a threshold determination of whether the claimed exemption is proper”).

Section 7

Clarifying amendment: no substantive change.

Section 8

Makes clear that an electronic copy of the budget is to be made available to the public free of charge, as is the current practice.

Section 9

Makes clear that it is the printed copy of the county code that may be sold and that an electronic copy is to be made available to the public free of charge, as is the current practice.

Sections 10-14

No change.

Section 15

Technical amendment for consistency with Section 13: no substantive change.

Sections 16-18

No change.

Section 19

Clarifying amendment: no substantive change.

Section 20

Subsection A

To make it easier for the public to learn the identity of the agency's public records officer and to submit a public records request, the amendment would modify the requirement that each county agency give public notice of its public records officer and add a provision about notice to be provided on the agency's website.³ (*See* p. 59.)

³ Part of the new language is suggested by RCW 42.56.580(3), which provides: "For local agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance within the public records disclosure requirements of this chapter shall be made in a way reasonably calculated to provide notice to the public, including posting at the local agency's place of business, posting on its internet site, or including in its publications."

Subsection B

The amendment would make clear that if an agency employee can promptly fulfill a citizen's request for documents, the request need not be forwarded to the agency's public records officer. The amendment would also make technical changes to this subsection. (*See p. 60.*)

Subsection C

The amendment would (1) expand the scope of staff training that an agency is required to provide,⁴ (2) import from RCW 42.56.080 the provision that an agency should not permit fulfillment of a records request to "unreasonably disrupt the operations of the agency," thereby potentially obtaining the benefit of any judicial interpretation of that language, and (3) clarify certain other provisions in the section. (*See p. 60.*)

Section 21

The amendment would modify subsection D to (1) require agencies to develop and use a standard disclosure request form, (2) specify certain minimum elements that the form must contain, (3) require that oral disclosure requests be confirmed in writing (reducing the potential for disputes about the scope and timing of oral requests), and (4) clarify certain other provisions in the section. (*See pp. 60-62.*)

Section 22

Subsections A and B

Clarifying amendments: no substantive change.

Subsection C

The amendment would require a public records officer who obtains clarification of a records request by phone to make a written record of the clarification. This is intended to limit the potential for miscommunication and provide objective evidence of the scope of the request.⁵ The amendment reflects current practice. (*See pp. 62-63.*)

Subsection D

No change.

Subsection E

The amendment would require, when records are withheld in whole or in part, that the public records officer explain briefly how the claimed exemption applies to the record

⁴ The proposed change, which is consistent with current practice, avoids a possible inference that training about records disclosure procedures is not required.

⁵ The confirmation requirement in section 21.D arguably applies only to the original request; hence, the need for this provision.

or portion withheld, including enough information for a requestor to make a threshold determination of whether the claimed exemption is proper. (*See* pp. 63-64.)

Subsection F

The amendment would import from RCW 42.56.080 and 42.56.100 the standards for balancing an agency's duty to fulfill records requests with its duty to carry out its other official duties, thereby potentially obtaining the benefit of any judicial interpretation of that language.⁶ There is also a clarifying amendment of this subsection. (*See* pp. 64-65.)

Subsection G

No change.

Subsection H

Clarifying amendments: no substantive change.

Subsection I

No change.

Subsection J

Technical amendment.

Sections 23-26

No change.

Sections 27 and 28

The amendment would add requirements (1) that county public records officers report to the Council on their implementation of the ordinance and on their processing of public records requests and (2) that the prosecuting attorney report to the Council on the status of any litigation against the county. (*See* pp. 69-70.)

INVITEES

1. Tony Adams, Archives, Records Management, & Mail Services, Records and Licensing Services Div., DES

⁶ RCW 42.56.080 provides in part: "Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency." RCW 42.56.100 provides in part: "Agencies shall adopt and enforce reasonable rules and regulations . . . consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency"

2. John Gerberding, Supervising Attorney, County Services and Finance, Prosecuting Attorney's Office
3. Deborah Kennedy, Archivist, King County Archives and Records Center
4. Anne Noris, Clerk of the Council, Metropolitan King County Council
5. Kelli Williams, King County Public Disclosure Officer
6. Val Wood, Deputy Director, Records and Licensing Services Division, DES

ATTACHMENTS

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Signature Report

October 2, 2009

Ordinance

Proposed No. 2009-0351.1

Sponsors Ferguson, Dunn, Phillips and
Constantine

1 AN ORDINANCE relating to public records and
2 records retention; amending Ordinance 10698,
3 Section 3, and K.C.C. 2.12.005, Ordinance 695,
4 Section 1, and K.C.C. 2.12.010, Ordinance 695,
5 Section 2, as amended, and K.C.C. 2.12.020,
6 Ordinance 10698, Section 2, and K.C.C. 2.12.035,
7 Ordinance 12485, Section 4, and K.C.C. 2.12.040,
8 Ordinance 3606, Section 4, as amended, and K.C.C.
9 2.12.060, Ordinance 134 (part) and K.C.C.
10 2.12.070, Ordinance 5962, Section 2, as amended,
11 and K.C.C. 2.12.080, Ordinance 1660, Sections 1-2,
12 as amended, and K.C.C. 2.12.120 and Ordinance
13 9168, Section 2, as amended, and K.C.C. 2.12.170,
14 adding new sections to K.C.C. chapter 2.12,
15 recodifying K.C.C. 2.12.160 and repealing
16 Ordinance 3606, Section 3, and K.C.C. 2.12.050,
17 Ordinance 3606, Section 5, and K.C.C. 2.12.090,

18 Ordinance 3606, Section 6, as amended, and K.C.C.
19 2.12.110, Ordinance 12485, Section 3, and K.C.C.
20 2.12.115, Ordinance 14266, Section 12, and K.C.C.
21 2.12.190 and Ordinance 2165, Section 5, as
22 amended, and K.C.C. 2.12.200.

23

24 STATEMENT OF FACTS:

25 1. Initiative 276, passed by the voters in 1972, states in part:

26 "It is hereby declared by the sovereign people to be the public policy of
27 the state of Washington: . . . (11) That mindful of the right of individuals
28 to privacy and of the desirability of the efficient administration of
29 government, full access to information concerning the conduct of
30 government on every level must be assured as a fundamental and
31 necessary precondition to the sound governance of a free society."

32 2. The policy in Initiative 276 was adopted by the Legislature in 1992:

33 "The people of this state do not yield their sovereignty to the agencies that
34 serve them. The people, in delegating authority, do not give their public
35 servants the right to decide what is good for the people to know and what
36 is not good for them to know. The people insist on remaining informed so
37 that they may maintain control over the instruments that they have created.
38 The public records subdivision of this chapter shall be liberally construed
39 and its exemptions narrowly construed to promote this public policy."

40 RCW 42.56.030.

41 3. In 2005, the legislature recodified the public records act and also
42 directed the attorney general to adopt advisory model rules to assist
43 requestors and agencies in the public records process.

44 4. In January 2006, the attorney general promulgated model rules for the
45 public records act, chapter 44-14 WAC.

46 5. K.C.C. chapter 2.12 contains the county's policies relating to public
47 records.

48 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

49 SECTION 1. Ordinance 10698, Section 3, and K.C.C. 2.12.005 are each hereby
50 amended to read as follows:

51 The definitions in this section apply throughout this chapter unless the context
52 clearly requires otherwise.

53 A. (~~("County records" means any document including any paper, correspondence,~~
54 ~~completed form, bound records book, photograph, film, sound or video recording, map,~~
55 ~~drawing, machine-readable material, or other document, regardless of physical form or~~
56 ~~characteristics, and including copies thereof, that have been made by or received by any~~
57 ~~agency of King County in connection with the transaction of public business.)) "Agency"
58 means:~~

59 1. The executive branch, except the superior court clerk;

60 2. The council;

61 3. The sheriff;

62 4. The assessor;

63 5. The prosecuting attorney; or

64 6. The elections director.

65 B. "Archival records" ~~((are))~~ means those designated as having continuing
66 historical value by the Washington State Archives or King County archivist.

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

70 D. "Public record" includes any writing containing information relating to the
71 conduct of government or the performance of any governmental or proprietary function
72 prepared, owned, used or retained by any state or local agency regardless of physical
73 form or characteristics.

74 E. "Public records officer" means the person appointed by the agency in
75 accordance with section 20.A. of this ordinance.

76 SECTION 2. Ordinance 695, Section 1, and K.C.C. 2.12.010 are each hereby
77 amended as follows:

78 ~~((The responsibility for preparation of permanent records of the proceedings of the~~
79 ~~King County council as required of the former county auditor by RCW 36.32.110 is~~
80 ~~defined by the County Home Rule Charter , Sections 220.30 and 220.40 to rest with staff~~
81 ~~established by the council.)) The clerk of the council ~~((administrator, as established by the~~
82 ~~1971 Appropriations Ordinance,)) is ~~((the employee))~~ responsible for the preparation of
83 permanent records of the council proceedings.~~~~

84 SECTION 3. Ordinance 695, Section 2, as amended, and K.C.C. 2.12.020 are each
85 hereby amended to read as follows:

86 All records of the King County council and records of the King County
87 commissioners(~~(, prior to the establishment of the Home Rule Charter, other than)~~)
88 including office files and memoranda shall be (~~(either photographed, microphotographed,~~
89 ~~photostated or reproduced on film by the records and elections division)~~) transferred to the
90 King County archives for permanent retention.

91 SECTION 4. Ordinance 10698, Section 2, and K.C.C. 2.12.035 are each hereby
92 amended as follows:

93 A. An archives and records management program is hereby established in the
94 records and (~~(elections)~~) licensing services division of the department of executive
95 services. The archives and records management program shall be responsible for:

96 (~~(A-)~~) 1. Maintaining a facility for storage of inactive and archival records(~~(-)~~);

97 (~~(B-)~~) 2. Establishing standards for records storage media to ensure continued
98 public access to public records during their legal retention period and for preservation of
99 archival (~~(information-)~~) records;

100 (~~(C-)~~) 3. Maintaining (~~(a directory to)~~) records retention schedules of current
101 records of county agencies, which (~~(shall)~~) may serve as a public (~~(disclosure)~~) records
102 index as set forth in (~~(RCW 42.17)~~) chapter 42.56 RCW. A directory of historical,
103 noncurrent or obsolete records designated archival shall serve as an index to King County
104 administrative history, as provided by (~~(RCW)~~) chapter 40.14(-) RCW; and

105 (~~(D-)~~) 4. Preserving and providing public access to the archival records of King
106 County.

107 B. The King County archives is designated as the official repository of the county's
108 archival records. The King County archives may transfer the county's archival records to
109 the Washington state archives for ongoing preservation.

110 SECTION 5. Ordinance 12485, Section 4, and K.C.C. 2.12.040 are each hereby
111 amended to read as follows:

112 ~~((Archives and records management shall be charged with the task of coordinating))~~
113 The department of executive services is responsible for maintaining ((a R))records
114 ((R))retention and ((P))public ((D))disclosure ((M))manuals. ((This)) The manuals shall
115 include ((identifying and describing)) each ((county)) agency's record retention schedules
116 ((and public disclosure designation)). ((Upon its completion, this)) The manuals shall be
117 made available by electronic means ((and in paper form)).

118 SECTION 6. Ordinance 3606, Section 3, and K.C.C. 2.12.050 are each repealed.

119 SECTION 7. Ordinance 3606, Section 4, as amended, and K.C.C. 2.12.060 are
120 each hereby amended to read as follows:

121 Retention of all ~~((county records, both))~~ public and official records((;)) shall be in
122 accordance with approved records retention schedules established pursuant to RCW
123 40.14.070. In accordance with those records retention schedules, ((F))the archives and
124 records management program shall provide for the legal retention and disposition ((policy))
125 for ((county)) public and official records, including identification of archival records.

126 SECTION 8. Ordinance 134 (part) and K.C.C. 2.12.070 are each hereby amended
127 to read as follows:

128 Copies of the annual King County budget shall be available from the office of ~~((the~~
129 ~~county administrator and shall be furnished to interested persons))~~ management and budget

130 upon payment of ~~((a minimal fee in the amount of))~~ five dollars for each copy ~~((thereof))~~,
131 which fee shall be paid to the King County treasurer.

132 SECTION 9. Ordinance 5962, Section 2, as amended, and K.C.C. 2.12.080 are
133 each hereby amended to read as follows:

134 The records~~((elections))~~ and licensing services division may sell copies of the
135 King County code to subscribers other than county agencies or departments for a fee of
136 three hundred dollars plus an additional charge of fifteen cents per page for quarterly
137 supplements.

138 SECTION 10. Ordinance 3606, Section 5, and K.C.C. 2.12.090 are each repealed.

139 SECTION 11. Ordinance 3606, Section 6, as amended, and K.C.C. 2.12.110 are
140 each repealed.

141 SECTION 12. Ordinance 12485, Section 3, and K.C.C. 2.12.115 are each repealed.

142 SECTION 13. Ordinance 1660, Sections 1-2, and K.C.C. 2.12.120 are each hereby
143 amended to read as follows:

144 The manager of the records~~((elections))~~ and licensing services division shall
145 charge such fees for the provision of recording services as are provided for county auditors
146 in chapters 36.18 and 36.22 RCW and RCW ~~((64.34.202))~~ 58.24.070. In addition, the
147 following specific fees apply:

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

- 150 1. Basic fee for first page \$25.00
151 2. ~~((Department of natural resources fees — \$26.00~~
152 3. ~~Centennial preservation fee ————— \$2.00))~~

153 4. ~~State archives fee~~ \$1.00

154 5.) Each additional page \$5.00

155 B. ~~((Short plats and boundary line adjustments.))~~ For short plats and boundary line
156 adjustments, legal size or smaller, the manager of the records~~((elections))~~ and licensing
157 services division shall charge such fees as are provided for county auditors in chapter 36.18
158 RCW. For short plats and boundary line adjustments, eighteen by twenty-four inches or
159 less in size, the fee schedule shall be the same as record of survey under ~~((K.C.C.~~
160 ~~2.12.120))~~ subsection A. of this section.

161 C. ~~((Record of monument.))~~ The record of monument shall be filed without charge
162 on the standard form prescribed by the state Department of Natural Resources, Bureau of
163 Surveys and Maps.

164 D. ~~((Reservation of condominium name.))~~ As authorized under RCW 64.34.202,
165 ~~((F))~~to reserve the right to use a specific name for a condominium, the fee is fifty dollars.
166 ~~((A reservation is subject to RCW 64.34.202.~~

167 ~~E. Administrative surcharge. As authorized by 2002 Wash. Laws Chapter 294,~~
168 ~~five percent of the mandatory state ten dollar surcharge on recorded instruments shall be~~
169 ~~retained as an administrative surcharge effective June 13, 2002. Of the remaining funds,~~
170 ~~forty percent shall be transmitted monthly to the state treasurer and the remaining sixty~~
171 ~~percent shall be retained by the county and deposited into a fund to be used by the county~~
172 ~~and its cities for low income housing initiatives.~~

173 ~~F. Administrative fee. As authorized by 2003 Wash. Laws 289, five percent of the~~
174 ~~mandatory one dollar state surcharge on recorded deeds of trust shall be retained as an~~
175 ~~administrative fee.))~~

176 SECTION 14. K.C.C. 2.12.160 shall be recodified in K.C.C. chapter 4.08.

177 SECTION 15. Ordinance 9168, Section 2, as amended, and K.C.C. 2.12.170 are
178 each hereby amended to read as follows:

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

186 B. To support the program, the records and ~~((elections))~~ licensing services manager
187 shall collect the ~~((two dollar fee provided by state law as amended))~~ fee authorized under
188 RCW 36.22.170 for each document recorded in the recorder's office, which shall be in
189 addition to any other authorized fee or charge. ~~((€;))~~ The fee ~~((of two dollars))~~ shall be
190 used for only those purposes outlined by state law as amended, that is, to provide for the
191 installation and maintenance of an improved system for copying, preserving and indexing
192 documents recorded in King County and for the preservation of those records deemed
193 archival.

194 SECTION 16. Ordinance 14266, Section 12, and K.C.C. 2.12.190 are each
195 repealed.

196 SECTION 17. Ordinance 2165, Section 5, as amended, and K.C.C. 2.12.200 are
197 each repealed.

198 NEW SECTION. SECTION 18. There is hereby added to K.C.C. chapter 2.12 a
199 new section to read as follows:

200 A. The county adopts the rules on records in sections 19, 20, 21, 22, 23, 24 and
201 25 of this ordinance, which are based on chapter 44-14 WAC. However, chapter 44-14
202 WAC and its comments are not adopted.

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

205 C. King County is a political subdivision of the state of Washington and is a
206 home rule charter county composed of multiple agencies.

207 NEW SECTION. SECTION 19. There is hereby added to K.C.C. chapter 2.12 a
208 new section to read as follows:

209 A. RCW 42.56.070(1) requires each agency to make available for inspection and
210 copying nonexempt "public records" in accordance with published rules. Chapter 42.56
211 RCW defines "public record" to include any "writing containing information relating to
212 the conduct of government or the performance of any governmental or proprietary
213 function prepared, owned, used, or retained" by the agency.

214 B. The purpose of this chapter is to establish the procedures the county will
215 follow in order to provide full access to public records. This chapter provides
216 information to persons wishing to request access to public records of the county and
217 establish processes for both requestors and county staff that are designed to best assist
218 members of the public in obtaining such access.

219 C. The purpose of chapter 42.56 RCW is to provide the public full access to
220 information concerning the conduct of government, mindful of individuals' privacy rights

221 and the desirability of the efficient administration of government. Chapter 42.56 RCW
222 and this chapter will be interpreted in favor of disclosure. In carrying out its
223 responsibilities under chapter 42.56 RCW, the county will be guided by the provisions of
224 the act describing its purposes and interpretation.

225 NEW SECTION. SECTION 20. There is hereby added to K.C.C. chapter 2.12 a
226 new section to read as follows:

227 A. Each agency shall appoint a public records officer. Each agency shall post at
228 its primary location and on the agency's Internet site a notice of the public records officer,
229 including the officer's name, address, telephone number and email address.

230 B. Any person wishing to request access to public records of an agency, or
231 seeking assistance in making such a request, should contact the public records officer of
232 the agency. If an agency's employee is contacted with a request for access to public
233 records, the employee shall forward the request to the agency's public records officer. A
234 request to one agency does not constitute a request to any other agency. A separate
235 request must be made to each agency for which access to public records is requested or
236 assistance in making such a request is sought.

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

- 240 1. Provide the fullest assistance to requestors;
- 241 2. Provide education and training within an agency to ensure that public records
242 are protected from damage or disorganization; and

243 3. Prevent fulfillment of public records requests from causing excessive
244 interference with essential functions of the county.

245 NEW SECTION. SECTION 21. There is hereby added to K.C.C. chapter 2.12 a
246 new section to read as follows:

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

250 B. An index of public records of each agency is available through the archives
251 and records management program established under K.C.C. 2.12.035. The index may be
252 accessed on-line at the archive and records management program's web site.

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

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

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

260 D.1. A person wishing to inspect or copy public records of an agency is
261 encouraged to make the request in writing on the agency's request form, if one exists.
262 Otherwise the requestor should make the request by letter, fax, or email addressed to the
263 public records officer and including the following information:

- 264 a. name of requestor;
- 265 b. address of requestor;

- 266 c. other contact information, including telephone number and any email
267 address;
- 268 d. identification of the public records adequate for the public records officer or
269 designee to locate the records; and
- 270 e. the date and time of day of the request.

271 2. If the requestor wishes to have copies of the records made instead of simply
272 inspecting them, the requestor should so indicate and make arrangements to pay for
273 copies of the records or a deposit. Charges for copies shall be made in accordance with
274 RCW 42.56.070.

275 NEW SECTION. SECTION 22. There is hereby added to K.C.C. chapter 2.12 a
276 new section to read as follows:

277 A. Each agency shall provide full access to public records, protect records from
278 damage or disorganization, prevent excessive interference with other essential functions
279 of the agency, provide fullest assistance to requestors and provide the most-timely
280 possible action on public records requests.

281 B. The public records officer or designee shall process requests in the order
282 allowing the most requests to be processed in the most efficient manner.

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

- 285 a. make the records available to the requestor for inspection or copying;
- 286 b. if copies are requested and payment of a deposit for the copies, if any, is
287 made or terms of payment are agreed upon, send the copies to the requestor;

288 c. provide to the requestor a reasonable estimate of when records will be
289 available;

290 d. if the request is unclear or does not sufficiently identify the requested
291 records, request clarification from the requestor. The clarification may be requested and
292 provided by telephone. The public records officer or designee may revise the estimate of
293 when records will be available. If the requestor fails to clarify the request, the agency
294 need not respond to it; or

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

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

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

306 E. Some records are exempt from disclosure, in whole or in part. If the agency
307 believes that a record is exempt from disclosure and should be withheld, the public
308 records officer shall state the specific exemption and provide the authority for the
309 exemption. If only a portion of a record is exempt from disclosure, but the remainder is

310 not exempt, the public records officer shall redact the exempt portions, provide the
311 nonexempt portions and indicate to the requestor the authority for the redaction.

312 F.1. Consistent with other demands, the agency shall promptly provide space to
313 inspect public records. No member of the public may remove a document from the
314 viewing area or disassemble or alter any document. The requestor shall indicate which
315 documents the requestor wishes the agency to copy.

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

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

328 H. When the request is for a large number of records, the public records officer or
329 designee shall provide access for inspection and copying in installments, if the public
330 records officer or designee reasonably determines that it would be practical to provide the
331 records in that way. If, within thirty days of a response under subsection C., D. or E. of
332 this section, the requestor fails to inspect the entire set of records or one or more of the

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

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

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

343 NEW SECTION. SECTION 23. There is hereby added to K.C.C. chapter 2.12 a
344 new section to read as follows:

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

347 B. When a requestor requests records in an electronic format, the agency's public
348 records officer shall provide the nonexempt records or portions of those records that are
349 reasonably locatable in an electronic format that is used by the agency and is generally
350 commercially available, or in a format that is reasonably translatable from the format in
351 which the agency keeps the record. Costs for providing electronic records are governed
352 by section 25.B. of this ordinance.

353 C. The agency may provide customized access under RCW 43.105.280 if the
354 record is not reasonably locatable or not reasonably translatable into the format

355 requested. The agency may charge a fee consistent with RCW 43.105.280 for the
356 customized access.

357 NEW SECTION. SECTION 24. There is hereby added to K.C.C. chapter 2.12 a
358 new section to read as follows:

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

368 B. King County and its agencies are prohibited by statute from disclosing lists of
369 individuals for commercial purposes.

370 NEW SECTION. SECTION 25. There is hereby added to K.C.C. chapter 2.12 a
371 new section to read as follows:

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

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

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

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

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

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

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

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

396 F. Charges for copies of material in the archival collection shall follow the
397 guidelines of the Washington state Archives and WAC 434-690-080.

398 NEW SECTION. SECTION 26. There is hereby added to K.C.C. chapter 2.12 a
399 new section to read as follows:

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

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

408 C. Any person may obtain court review of the denial of a public records request

Ordinance

409 made pursuant to RCW 42.56.550 at the conclusion of two business days after the initial
410 denial regardless of any internal administrative appeal.
411

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

ATTEST:

APPROVED this ____ day of _____, _____.

Attachments None

October 5, 2009

mh, nw

Sponsor: Ferguson, Dunn, and Phillips

Proposed No.: 2009-0351

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2009-0351, VERSION**

2 **1**

3 On page 2, beginning on line 24, strike everything through page 20, line 410, and insert:

4 "STATEMENT OF FACTS:

5 1. Initiative 276, passed by the voters in 1972, states in part:

6 "It is hereby declared by the sovereign people to be the public policy of
7 the state of Washington: . . . (11) That mindful of the right of individuals
8 to privacy and of the desirability of the efficient administration of
9 government, full access to information concerning the conduct of
10 government on every level must be assured as a fundamental and
11 necessary precondition to the sound governance of a free society."

12 2. The policy in Initiative 276 was adopted by the Legislature in 1992:

13 "The people of this state do not yield their sovereignty to the agencies that
14 serve them. The people, in delegating authority, do not give their public
15 servants the right to decide what is good for the people to know and what
16 is not good for them to know. The people insist on remaining informed so
17 that they may maintain control over the instruments that they have created.

18 The public records subdivision of this chapter shall be liberally construed
19 and its exemptions narrowly construed to promote this public policy."

20 RCW 42.56.030.

21 3. In 2005, the legislature recodified the public records act and also
22 directed the attorney general to adopt advisory model rules to assist
23 requestors and agencies in the public records process.

24 4. In January 2006, the attorney general promulgated model rules for the
25 public records act, chapter 44-14 WAC.

26 5. K.C.C. chapter 2.12 contains the county's policies relating to public
27 records.

28 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

29 SECTION 1. Ordinance 10698, Section 3, and K.C.C. 2.12.005 are each hereby
30 amended to read as follows:

31 The definitions in this section apply throughout this chapter unless the context
32 clearly requires otherwise.

33 A.1. (~~"County records" means any document including any paper,~~
34 ~~correspondence, completed form, bound records book, photograph, film, sound or video~~
35 ~~recording, map, drawing, machine readable material, or other document, regardless of~~
36 ~~physical form or characteristics, and including copies thereof, that have been made by or~~
37 ~~received by any agency of King County in connection with the transaction of public~~
38 ~~business.)) "Agency" means:~~

39 a. the executive branch;

40 b. the legislative branch;

41 c. the department of public safety;
42 d. the department of assessments;
43 e. the office of the prosecuting attorney;
44 f. the department of elections;
45 g. the forecast council and office of economic and financial analysis;
46 h. the board of appeals; and
47 i. the personnel board.
48 2. "Agency" does not include the superior court or the district court.
49 B. "Archival records" (~~are~~) means those designated as having continuing
50 historical value by the Washington State Archives or the King County archivist.
51 C. "County records" means any document, including any paper, correspondence,
52 completed form, bound records book, photograph, film, sound or video recording, map,
53 drawing, machine-readable material or other document, regardless of physical form or
54 characteristics, and including copies thereof, that has been made by or received by any
55 agency of King County in connection with the transaction of public business.
56 D. "Executive branch" means the executive branch as defined in the county charter,
57 but excluding the department of public safety, the department of assessments and the
58 department of elections.
59 E. "Legislative branch" means the legislative branch as defined in the county
60 charter and as provided by ordinance, including, but not limited to, the county council and
61 the offices of the county auditor, citizen complaints, the hearing examiner and law
62 enforcement oversight.

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

66 G. "Public record" includes any writing containing information relating to the
67 conduct of government or the performance of any governmental or proprietary function
68 prepared, owned, used or retained by any state or local agency regardless of physical
69 form or characteristics.

70 H. "Public records officer" means the person appointed by the agency in
71 accordance with section 20.A. of this ordinance.

72 SECTION 2. Ordinance 695, Section 1, and K.C.C. 2.12.010 are each hereby
73 amended as follows:

74 ~~((The responsibility for preparation of permanent records of the proceedings of the~~
75 ~~King County council as required of the former county auditor by RCW 36.32.110 is~~
76 ~~defined by the County Home Rule Charter, Sections 220.30 and 220.40 to rest with staff~~
77 ~~established by the council.)) The clerk of the council ~~((administrator, as established by the~~
78 ~~1971 Appropriations Ordinance,)) is ~~((the employee))~~ responsible for the preparation of
79 permanent records of the council proceedings.~~~~

80 SECTION 3. Ordinance 695, Section 2, as amended, and K.C.C. 2.12.020 are each
81 hereby amended to read as follows:

82 All records of the King County council and records of the King County
83 commissioners, ~~((prior to the establishment of the Home Rule Charter, other than))~~
84 including office files and memoranda, shall be ~~((either photographed, microphotographed,~~
85 ~~photostated or reproduced on film by the records and elections division))~~ transferred to the

86 King County archives for permanent retention in accordance with the applicable records
87 retention schedules.

88 SECTION 4. Ordinance 10698, Section 2, and K.C.C. 2.12.035 are each hereby
89 amended as follows:

90 A. An archives and records management program is hereby established in the
91 records and ~~((elections))~~ licensing services division of the department of executive
92 services. The archives and records management program shall be responsible for:

93 ~~((A:))~~ 1. Maintaining a facility for storage of inactive and archival records~~((:))~~;

94 ~~((B:))~~ 2. Establishing standards for records storage media to ensure continued
95 public access to public records during their legal retention period and for preservation of
96 archival ~~((information:))~~ records;

97 ~~((C:))~~ 3. Maintaining ~~((a directory to))~~ records retention schedules of current
98 records of county agencies, which shall serve as ~~((a))~~ the public ~~((disclosure))~~ records index
99 as set forth in ~~((RCW 42.17))~~ chapter 42.56 RCW. A directory of historical, noncurrent or
100 obsolete records designated archival shall serve as an index to King County administrative
101 history, as provided by ~~((RCW))~~ chapter 40.14~~((:))~~ RCW; and

102 ~~((D:))~~ 4. Preserving and providing public access to the archival records of King
103 County.

104 B. The King County archives is designated as the official repository of the county's
105 archival records. The King County archives may transfer the county's archival records to
106 the Washington state archives for ongoing preservation.

107 SECTION 5. Ordinance 12485, Section 4, and K.C.C. 2.12.040 are each hereby
108 amended to read as follows:

109 ~~((Archives and records management shall be charged with the task of coordinating))~~
110 The department of executive services is responsible for maintaining ((a R))records
111 ~~((R))~~retention and ~~((P))~~public ~~((D))~~disclosure ~~((M))~~manuals. ~~((This))~~ The manuals shall
112 include ~~((identifying and describing))~~ each ~~((county))~~ agency's record retention schedules
113 ~~((and public disclosure designation))~~. ~~((Upon its completion, this))~~ The manuals shall be
114 made available to the public by electronic means ~~((and in paper form))~~.

115 SECTION 6. Ordinance 3606, Section 3, and K.C.C. 2.12.050 are each repealed.

116 SECTION 7. Ordinance 3606, Section 4, as amended, and K.C.C. 2.12.060 are
117 each hereby amended to read as follows:

118 Retention of ~~((all county records, both))~~ public ~~((and))~~ records, including official
119 records, shall be in accordance with approved records retention schedules established
120 pursuant to RCW 40.14.070. In accordance with those records retention schedules,
121 ~~((F))~~the archives and records management program shall provide for the legal retention and
122 disposition ~~((policy for county))~~ of public records, including identification of archival
123 records.

124 SECTION 8. Ordinance 134 (part) and K.C.C. 2.12.070 are each hereby amended
125 to read as follows:

126 Copies of the annual King County budget shall be available from the office of ~~((the~~
127 ~~county administrator and shall be furnished to interested persons))~~ management and budget
128 upon payment of ~~((a minimal fee in the amount of))~~ five dollars for each copy ~~((thereof))~~,
129 which fee shall be paid to the King County treasurer. The county executive shall make
130 available to the public on the county's website, at no charge, an electronic copy of the
131 budget ordinance.

132 SECTION 9. Ordinance 5962, Section 2, as amended, and K.C.C. 2.12.080 are
133 each hereby amended to read as follows:

134 The records(~~(,elections))~~) and licensing services division may sell printed copies of
135 the King County code to subscribers other than county agencies or departments for a fee of
136 three hundred dollars plus an additional charge of fifteen cents per page for quarterly
137 supplements. The clerk of the council shall make available to the public on the county's
138 website at no charge an electronic version of the code, updated at least annually.

139 SECTION 10. Ordinance 3606, Section 5, and K.C.C. 2.12.090 are each repealed.

140 SECTION 11. Ordinance 3606, Section 6, as amended, and K.C.C. 2.12.110 are
141 each repealed.

142 SECTION 12. Ordinance 12485, Section 3, and K.C.C. 2.12.115 are each repealed.

143 SECTION 13. Ordinance 1660, Sections 1-2, and K.C.C. 2.12.120 are each hereby
144 amended to read as follows:

145 The manager of the records(~~(,elections))~~) and licensing services division shall
146 charge such fees for the provision of recording services as are provided for county auditors
147 in chapters 36.18 and 36.22 RCW and RCW (~~(64.34.202))~~ 58.24.070. In addition, the
148 following specific fees apply:

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

- | | | |
|-----|--|---------------------|
| 151 | 1. Basic fee for first page | \$25.00 |
| 152 | 2. (Department of natural resources fees) | \$26.00 |
| 153 | 3. Centennial preservation fee | (\$2.00) |
| 154 | 4. State archives fee | \$1.00 |

178 SECTION 15. Ordinance 9168, Section 2, as amended, and K.C.C. 2.12.170 are
179 each hereby amended to read as follows:

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

187 B. To support the program, the manager of the records and licensing services
188 ~~((manager))~~ division shall collect the ~~((two dollar fee provided by state law as amended))~~
189 fee authorized under RCW 36.22.170 for each document recorded in the recorder's office,
190 which shall be in addition to any other authorized fee or charge. ~~((€;))~~ The fee ~~((of two~~
191 ~~dollars))~~ shall be used for only those purposes outlined by state law as amended, that is, to
192 provide for the installation and maintenance of an improved system for copying, preserving
193 and indexing documents recorded in King County and for the preservation of those records
194 deemed archival.

195 SECTION 16. Ordinance 14266, Section 12, and K.C.C. 2.12.190 are each
196 repealed.

197 SECTION 17. Ordinance 2165, Section 5, as amended, and K.C.C. 2.12.200 are
198 each repealed.

199 NEW SECTION. SECTION 18. There is hereby added to K.C.C. chapter 2.12 a
200 new section to read as follows:

201 A. The county adopts the rules on records in sections 19, 20, 21, 22, 23, 24 and
202 25 of this ordinance, which are based on chapter 44-14 WAC. However, chapter 44-14
203 WAC and its comments are not adopted.

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

206 C. King County is a political subdivision of the state of Washington and is a
207 home rule charter county composed of multiple agencies.

208 NEW SECTION. SECTION 19. There is hereby added to K.C.C. chapter 2.12 a
209 new section to read as follows:

210 A. RCW 42.56.070(1) requires each agency to make available for inspection and
211 copying nonexempt "public records" in accordance with published rules. Chapter 42.56
212 RCW defines "public record" to include any "writing containing information relating to
213 the conduct of government or the performance of any governmental or proprietary
214 function prepared, owned, used, or retained" by the agency.

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

221 C. The purpose of chapter 42.56 RCW is to provide the public full access to
222 records concerning the conduct of government that are not exempt from disclosure under
223 applicable law, mindful of individuals' privacy rights and the desirability of the efficient

224 administration of government. Chapter 42.56 RCW and this chapter will be interpreted
225 in favor of disclosure. In carrying out its responsibilities under chapter 42.56 RCW, the
226 county will be guided by the provisions of the act describing its purposes and
227 interpretation.

228 NEW SECTION. SECTION 20. There is hereby added to K.C.C. chapter 2.12 a
229 new section to read as follows:

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

236 B. Any person wishing to request access to public records of an agency, or
237 seeking assistance in making such a request, should contact the public records officer of
238 the agency. If an agency's employee is contacted with a request for access to public
239 records that the employee cannot promptly fulfill, the employee shall forward the request
240 to the agency's public records officer. A request to one agency does not constitute a
241 request to any other agency. A separate request must be made to each agency from
242 which access to public records is requested or assistance in making such a request is
243 sought.

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

- 247 1. Provide the fullest assistance to requestors;
- 248 2. Provide education and training within an agency to ensure that public records
249 are protected from damage or disorganization and are promptly produced for inspection
250 and copying upon request to the extent required by law; and
- 251 3. Prevent fulfillment of public records requests from causing excessive
252 interference with essential functions of the agency or unreasonably disrupting the
253 operations of the agency.

254 NEW SECTION. SECTION 21. There is hereby added to K.C.C. chapter 2.12 a
255 new section to read as follows:

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

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

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

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

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

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

273 a. recite that inspection of records is free, provide the per-page charge for
274 standard photocopies and indicate that the requestor may inspect the records, receive a
275 copy of the records or inspect the records first and then select records to copy;

276 b. prompt the requestor to provide contact information including name, phone
277 number, mailing address and email address if available;

278 c. prompt the requestor to identify the public records adequately for the public
279 records officer or designee to locate the records; and

280 d. prompt the requestor to provide the date and time of day of the request.

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

283 3. If the requestor wishes to have copies of the records made instead of simply
284 inspecting them, the requestor should so indicate and make arrangements to pay for
285 copies of the records or a deposit. Charges for copies shall be made in accordance with
286 RCW 42.56.070.

287 NEW SECTION. SECTION 22. There is hereby added to K.C.C. chapter 2.12 a
288 new section to read as follows:

289 A. Each agency shall provide full access to public records that are not exempt
290 from disclosure under applicable law, protect records from damage or disorganization,
291 prevent excessive interference with other essential functions of the agency, provide

292 fullest assistance to requestors and provide the most-timely possible action on public
293 records requests.

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

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

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

313 2. Additional time required to respond to a request may be based upon the need
314 to clarify the intent of the request, to locate and assemble the information requested, to

315 notify third persons or agencies affected by the request or to determine whether any of
316 the information requested is exempt and that a denial should be made as to all or part of
317 the request.

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

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

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

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

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

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

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

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

364 NEW SECTION. SECTION 23. There is hereby added to K.C.C. chapter 2.12 a
365 new section to read as follows:

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

368 B. When a requestor requests records in an electronic format, the agency's public
369 records officer shall provide the nonexempt records or portions of those records that are
370 reasonably locatable in an electronic format that is used by the agency and is generally
371 commercially available, or in a format that is reasonably translatable from the format in
372 which the agency keeps the record. Costs for providing electronic records are governed
373 by section 25.B. of this ordinance.

374 C. The agency may provide customized access under RCW 43.105.280 if the
375 record is not reasonably locatable or not reasonably translatable into the format
376 requested. The agency may charge a fee consistent with RCW 43.105.280 for the
377 customized access.

378 NEW SECTION. SECTION 24. There is hereby added to K.C.C. chapter 2.12 a
379 new section to read as follows:

380 A. The Public Records Act provides that a number of types of documents are
381 exempt from public inspection and copying. In addition, documents are exempt from
382 disclosure if any other statute exempts or prohibits disclosure. Exemptions outside the

383 Public Records Act that restrict the availability of some documents held by the county or
384 its agencies for inspection and copying include, but are not limited to, those set forth for
385 counties and municipalities in the most-recent list of other such statutes posted on the
386 website of the Municipal Research and Services Center of Washington, which is, as of
387 the effective date of this section, www.mrsc.org/Publications/pr06.pdf, Appendix C, and
388 which is incorporated in this chapter by reference.

389 B. King County and its agencies are prohibited by statute from disclosing lists of
390 individuals for commercial purposes.

391 NEW SECTION. SECTION 25. There is hereby added to K.C.C. chapter 2.12 a
392 new section to read as follows:

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

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

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

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

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

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

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

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

417 F. Charges for copies of material in the archival collection shall follow the
418 guidelines of the Washington state Archives and WAC 434-690-080.

419 NEW SECTION. SECTION 26. There is hereby added to K.C.C. chapter 2.12 a
420 new section to read as follows:

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

425 B. The public records officer shall promptly provide the petition and any other
426 relevant information to the public records officer's supervisor or any other agency official

427 designated by the agency to conduct the review. The reviewing officer shall review the
428 decision and provide the requestor with a response.

429 C. Any person may obtain court review of the denial of a public records request
430 made in accordance with RCW 42.56.550 at the conclusion of two business days after the
431 initial denial regardless of any internal administrative appeal.

432 NEW SECTION. SECTION 27. There is hereby added to K.C.C. chapter 2.12 a
433 new section to read as follows:

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

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

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

446 B. On January 15 and July 15 of each year, the county prosecuting attorney shall
447 submit to the county council a report listing all pending lawsuits alleging that the county
448 has violated chapter 42.56 RCW, including the name of the case, the court in which it
449 was filed, the date on which it was filed, the case number, a brief summary of the claims

450 made against the county and the current case status. A paper original and an electronic
451 copy of the report shall be filed with the clerk of the council, who shall email the
452 electronic copy to all councilmembers.

453 SECTION 28. The public records officer of each county agency shall submit a
454 report by July 16, 2010, in the form of a paper original and an electronic copy, to the
455 clerk of the council, who shall retain the original and email an electronic copy to each
456 councilmember. The report shall briefly describe the steps the public records officer has
457 taken to implement this ordinance, including, but not limited to, the requirements in
458 sections 20.A. and 21.D.1. of this ordinance. The report may also provide a description
459 of any challenges that were encountered in the implementation and any suggestions for
460 additional legislation that would promote efficient access to public records."

461

462 **EFFECT: The proposed amendment:**

463 **1. Clarifies sections 1 through 7;**

464 **2. Makes clear in section 8 that an electronic copy of the budget is to be**
465 **made available to the public free of charge;**

466 **3. Makes clear in section 9 that it is the printed copy of the county code that**
467 **may be sold and that an electronic copy is to be made available to the public free of**
468 **charge;**

469 **4. Makes a technical correction in section 15;**

470 **5. Clarifies section 19;**

471 **6. In section 20, modifies the requirement that each county agency give**
472 **public notice of its public records officer and adds a provision about notice to be**

473 **provided on the agency’s website, expands the scope of staff training that is**
474 **required, and clarifies certain other provisions in the section;**

475 **7. In section 21, requires agencies to develop and use a standard disclosure**
476 **request form, specifies certain elements that the form must contain, requires that**
477 **oral disclosure requests be confirmed in writing, and clarifies the section;**

478 **8. In section 22, requires a written record to be made of telephone**
479 **clarifications of records requests, elaborates on the information that must be**
480 **provided regarding the withholding of documents or portions thereof, and clarifies**
481 **the section;**

482 **9. Adds new sections 27 and 28, requiring reports to the Council.**

[Redline of Striking Amendment S1 against
original Proposed Ordinance 2009-0351]

S1

October 5, 2009

mh, nw

Sponsor: Ferguson, Dunn, and Phillips

Proposed No.: 2009-0351

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2009-0351, VERSION**

2 **1**

3 On page 2, beginning on line 24, strike everything through page 20, line 410, and insert:

4 "STATEMENT OF FACTS:

5 1. Initiative 276, passed by the voters in 1972, states in part:

6 "It is hereby declared by the sovereign people to be the public policy of
7 the state of Washington: . . . (11) That mindful of the right of individuals
8 to privacy and of the desirability of the efficient administration of
9 government, full access to information concerning the conduct of
10 government on every level must be assured as a fundamental and
11 necessary precondition to the sound governance of a free society."

12 2. The policy in Initiative 276 was adopted by the Legislature in 1992:

13 "The people of this state do not yield their sovereignty to the agencies that
14 serve them. The people, in delegating authority, do not give their public
15 servants the right to decide what is good for the people to know and what
16 is not good for them to know. The people insist on remaining informed so
17 that they may maintain control over the instruments that they have created.

18 The public records subdivision of this chapter shall be liberally construed
19 and its exemptions narrowly construed to promote this public policy."

20 RCW 42.56.030.

21 3. In 2005, the legislature recodified the public records act and also
22 directed the attorney general to adopt advisory model rules to assist
23 requestors and agencies in the public records process.

24 4. In January 2006, the attorney general promulgated model rules for the
25 public records act, chapter 44-14 WAC.

26 5. K.C.C. chapter 2.12 contains the county's policies relating to public
27 records.

28 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

29 SECTION 1. Ordinance 10698, Section 3, and K.C.C. 2.12.005 are each hereby
30 amended to read as follows:

31 The definitions in this section apply throughout this chapter unless the context
32 clearly requires otherwise.

33 | A.1. (~~"County records" means any document including any paper,~~
34 | ~~correspondence, completed form, bound records book, photograph, film, sound or video~~
35 | ~~recording, map, drawing, machine-readable material, or other document, regardless of~~
36 | ~~physical form or characteristics, and including copies thereof, that have been made by or~~
37 | ~~received by any agency of King County in connection with the transaction of public~~
38 | ~~business.)) "Agency" means:~~

39 | 1. The a. the executive branch, except the superior court clerk;

40 | 2. The council; b. the legislative branch;

- 41 3. The sheriff; c. the department of public safety;
42 4. The assessor; d. the department of assessments;
43 5. The e. the office of the prosecuting attorney; ~~or~~
44 6. The f. the department of elections ~~director~~;
45 g. the forecast council and office of economic and financial analysis;
46 h. the board of appeals; and
47 i. the personnel board.

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

49 B. "Archival records" (~~are~~) means those designated as having continuing
50 historical value by the Washington State Archives or the King County archivist.

51 C. "Official record" means a public record that an agency is required by law to
52 accept or maintain, including, but not limited to, recorded documents, judgments, licenses,
53 vital statistics and property records."County records" means any document, including any
54 paper, correspondence, completed form, bound records book, photograph, film, sound or
55 video recording, map, drawing, machine-readable material or other document, regardless of
56 physical form or characteristics, and including copies thereof, that has been made by or
57 received by any agency of King County in connection with the transaction of public
58 business.

59 D. "Public record" includes any writing containing information relating to the
60 conduct of government or the performance of any governmental or proprietary function
61 prepared, owned, used or retained by any state or local agency regardless of physical
62 form or characteristics."Executive branch" means the executive branch as defined in the

63 county charter, but excluding the department of public safety, the department of
64 assessments and the department of elections.

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

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

72 G. "Public record" includes any writing containing information relating to the
73 conduct of government or the performance of any governmental or proprietary function
74 prepared, owned, used or retained by any state or local agency regardless of physical
75 form or characteristics.

76 H. "Public records officer" means the person appointed by the agency in
77 accordance with section 20.A. of this ordinance.

78 SECTION 2. Ordinance 695, Section 1, and K.C.C. 2.12.010 are each hereby
79 amended as follows:

80 ~~((The responsibility for preparation of permanent records of the proceedings of the~~
81 ~~King County council as required of the former county auditor by RCW 36.32.110 is~~
82 ~~defined by the County Home Rule Charter , Sections 220.30 and 220.40 to rest with staff~~
83 ~~established by the council.)) The clerk of the council ~~((administrator, as established by the~~
84 ~~1971 Appropriations Ordinance,)) is ~~((the employee))~~ responsible for the preparation of
85 permanent records of the council proceedings.~~~~

86 SECTION 3. Ordinance 695, Section 2, as amended, and K.C.C. 2.12.020 are each
87 hereby amended to read as follows:

88 All records of the King County council and records of the King County
89 commissioners ~~((, ((prior to the establishment of the Home Rule Charter, other than))~~
90 including office files and memoranda, shall be ~~((either photographed, microphotographed,~~
91 ~~photostated or reproduced on film by the records and elections division))~~ transferred to the
92 King County archives for permanent retention in accordance with the applicable records
93 retention schedules.

94 SECTION 4. Ordinance 10698, Section 2, and K.C.C. 2.12.035 are each hereby
95 amended as follows:

96 A. An archives and records management program is hereby established in the
97 records and ~~((elections))~~ licensing services division of the department of executive
98 services. The archives and records management program shall be responsible for:

99 ~~((A.))~~ 1. Maintaining a facility for storage of inactive and archival records~~((:))~~;

100 ~~((B.))~~ 2. Establishing standards for records storage media to ensure continued
101 public access to public records during their legal retention period and for preservation of
102 archival ~~((information:))~~ records;

103 ~~((C.))~~ 3. Maintaining ~~((a directory to))~~ records retention schedules of current
104 records of county agencies, which ~~((shall))~~ may serve as ~~((a))~~ the public ~~((disclosure))~~
105 records index as set forth in ~~((RCW 42.17))~~ chapter 42.56 RCW. A directory of historical,
106 noncurrent or obsolete records designated archival shall serve as an index to King County
107 administrative history, as provided by ~~((RCW))~~ chapter 40.14~~((:))~~ RCW; and

108 ~~(D:)~~ 4. Preserving and providing public access to the archival records of King
109 County.

110 B. The King County archives is designated as the official repository of the county's
111 archival records. The King County archives may transfer the county's archival records to
112 the Washington state archives for ongoing preservation.

113 SECTION 5. Ordinance 12485, Section 4, and K.C.C. 2.12.040 are each hereby
114 amended to read as follows:

115 ~~((Archives and records management shall be charged with the task of coordinating))~~
116 The department of executive services is responsible for maintaining ((a R))records
117 ((R))retention and ((P))public ((D))disclosure ((M))manuals. ((This)) The manuals shall
118 include ((identifying and describing)) each ((county)) agency's record retention schedules
119 ((and public disclosure designation)). ((Upon its completion, this)) The manuals shall be
120 | made available to the public by electronic means ~~((and in paper form)).~~

121 SECTION 6. Ordinance 3606, Section 3, and K.C.C. 2.12.050 are each repealed.

122 SECTION 7. Ordinance 3606, Section 4, as amended, and K.C.C. 2.12.060 are
123 each hereby amended to read as follows:

124 | Retention of ~~((all ((county records, both)) public ((and)) records, including~~ official
125 | records~~((,))~~, shall be in accordance with approved records retention schedules established
126 | pursuant to RCW 40.14.070. In accordance with those records retention schedules,
127 ~~((F))~~the archives and records management program shall provide for the legal retention and
128 | disposition ~~((policy))~~ for ~~((county))~~ of public and official records, including identification
129 | of archival records.

130 SECTION 8. Ordinance 134 (part) and K.C.C. 2.12.070 are each hereby amended
131 to read as follows:

132 Copies of the annual King County budget shall be available from the office of ((the
133 ~~county administrator and shall be furnished to interested persons~~) management and budget
134 upon payment of ((~~a minimal fee in the amount of~~) five dollars for each copy ((~~thereof~~)),
135 which fee shall be paid to the King County treasurer. The county executive shall make
136 available to the public on the county's website, at no charge, an electronic copy of the
137 budget ordinance.

138 SECTION 9. Ordinance 5962, Section 2, as amended, and K.C.C. 2.12.080 are
139 each hereby amended to read as follows:

140 The records((~~, elections~~)) and licensing services division may sell printed copies of
141 the King County code to subscribers other than county agencies or departments for a fee of
142 three hundred dollars plus an additional charge of fifteen cents per page for quarterly
143 supplements. The clerk of the council shall make available to the public on the county's
144 website at no charge an electronic version of the code, updated at least annually.

145 SECTION 10. Ordinance 3606, Section 5, and K.C.C. 2.12.090 are each repealed.

146 SECTION 11. Ordinance 3606, Section 6, as amended, and K.C.C. 2.12.110 are
147 each repealed.

148 SECTION 12. Ordinance 12485, Section 3, and K.C.C. 2.12.115 are each repealed.

149 SECTION 13. Ordinance 1660, Sections 1-2, and K.C.C. 2.12.120 are each hereby
150 amended to read as follows:

151 The manager of the records((~~, elections~~)) and licensing services division shall
152 charge such fees for the provision of recording services as are provided for county auditors

153 in chapters 36.18 and 36.22 RCW and RCW ~~((64.34.202))~~ 58.24.070. In addition, the
154 following specific fees apply:

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

- 157 1. Basic fee for first page \$25.00
- 158 2. ~~((Department of natural resources fees — \$26.00~~
- 159 3. ~~Centennial preservation fee ————— \$2.00))~~
- 160 4. ~~State archives fee ————— \$1.00~~
- 161 5.)) Each additional page \$5.00

162 B. ~~((Short plats and boundary line adjustments.))~~ For short plats and boundary line
163 adjustments, legal size or smaller, the manager of the records~~((, elections))~~ and licensing
164 services division shall charge such fees as are provided for county auditors in chapter 36.18
165 RCW. For short plats and boundary line adjustments, eighteen by twenty-four inches or
166 less in size, the fee schedule shall be the same as record of survey under ~~((K.C.C.~~
167 ~~2.12.120))~~ subsection A. of this section.

168 C. ~~((Record of monument.))~~ The record of monument shall be filed without charge
169 on the standard form prescribed by the state Department of Natural Resources, Bureau of
170 Surveys and Maps.

171 D. ~~((Reservation of condominium name.))~~ As authorized under RCW 64.34.202,
172 ~~((F))~~ to reserve the right to use a specific name for a condominium, the fee is fifty dollars.
173 ~~((A reservation is subject to RCW 64.34.202.~~

174 E. ~~Administrative surcharge. As authorized by 2002 Wash. Laws Chapter 294,~~
175 ~~five percent of the mandatory state ten dollar surcharge on recorded instruments shall be~~

176 retained as an administrative surcharge effective June 13, 2002. Of the remaining funds,
177 forty percent shall be transmitted monthly to the state treasurer and the remaining sixty
178 percent shall be retained by the county and deposited into a fund to be used by the county
179 and its cities for low income housing initiatives.

180 ~~F. Administrative fee. As authorized by 2003 Wash. Laws 289, five percent of the~~
181 ~~mandatory one dollar state surcharge on recorded deeds of trust shall be retained as an~~
182 ~~administrative fee.)~~

183 SECTION 14. K.C.C. 2.12.160 shall be recodified in K.C.C. chapter 4.08.

184 SECTION 15. Ordinance 9168, Section 2, as amended, and K.C.C. 2.12.170 are
185 each hereby amended to read as follows:

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

193 B. To support the program, the manager of the records and ~~((elections))~~ licensing
194 services ~~((manager-))~~ division shall collect the ~~((two dollar fee provided by state law as~~
195 ~~amended))~~ fee authorized under RCW 36.22.170 for each document recorded in the
196 recorder's office, which shall be in addition to any other authorized fee or charge. ~~((€;))~~
197 The fee ~~((of two dollars))~~ shall be used for only those purposes outlined by state law as
198 amended, that is, to provide for the installation and maintenance of an improved system for

199 copying, preserving and indexing documents recorded in King County and for the
200 preservation of those records deemed archival.

201 SECTION 16. Ordinance 14266, Section 12, and K.C.C. 2.12.190 are each
202 repealed.

203 SECTION 17. Ordinance 2165, Section 5, as amended, and K.C.C. 2.12.200 are
204 each repealed.

205 NEW SECTION. SECTION 18. There is hereby added to K.C.C. chapter 2.12 a
206 new section to read as follows:

207 A. The county adopts the rules on records in sections 19, 20, 21, 22, 23, 24 and
208 25 of this ordinance, which are based on chapter 44-14 WAC. However, chapter 44-14
209 WAC and its comments are not adopted.

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

212 C. King County is a political subdivision of the state of Washington and is a
213 home rule charter county composed of multiple agencies.

214 NEW SECTION. SECTION 19. There is hereby added to K.C.C. chapter 2.12 a
215 new section to read as follows:

216 A. RCW 42.56.070(1) requires each agency to make available for inspection and
217 copying nonexempt "public records" in accordance with published rules. Chapter 42.56
218 RCW defines "public record" to include any "writing containing information relating to
219 the conduct of government or the performance of any governmental or proprietary
220 function prepared, owned, used, or retained" by the agency.

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

227 C. The purpose of chapter 42.56 RCW is to provide the public full access to
228 ~~information~~records concerning the conduct of government that are not exempt from
229 disclosure under applicable law, mindful of individuals' privacy rights and the desirability
230 of the efficient administration of government. Chapter 42.56 RCW and this chapter will
231 be interpreted in favor of disclosure. In carrying out its responsibilities under chapter
232 42.56 RCW, the county will be guided by the provisions of the act describing its purposes
233 and interpretation.

234 NEW SECTION. SECTION 20. There is hereby added to K.C.C. chapter 2.12 a
235 new section to read as follows:

236 A. Each agency shall appoint a public records officer. ~~Each agency shall post at~~
237 ~~its primary location and on the agency's Internet site~~ and shall identify the officer in a
238 way reasonably calculated to provide notice ~~of to~~ the public ~~records officer~~, including
239 posting, at the agency's public service counters, if any, and on its website, the officer's
240 name, office address, telephone number, fax number and email address. Each agency
241 shall include on its website home page a link to the web page on which the agency
242 provides this contact information and instructions on how to make a public records
243 request.

244 B. Any person wishing to request access to public records of an agency, or
245 seeking assistance in making such a request, should contact the public records officer of
246 the agency. If an agency's employee is contacted with a request for access to public
247 records that the employee cannot promptly fulfill, the employee shall forward the request
248 to the agency's public records officer. A request to one agency does not constitute a
249 request to any other agency. A separate request must be made to each agency ~~for~~from
250 which access to public records is requested or assistance in making such a request is
251 sought.

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

- 255 1. Provide the fullest assistance to requestors;
- 256 2. Provide education and training within an agency to ensure that public records
257 are protected from damage or disorganization; and are promptly produced for inspection
258 and copying upon request to the extent required by law; and
- 259 3. Prevent fulfillment of public records requests from causing excessive
260 interference with essential functions of the ~~county~~agency or unreasonably disrupting the
261 operations of the agency.

262 NEW SECTION. SECTION 21. There is hereby added to K.C.C. chapter 2.12 a
263 new section to read as follows:

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

267 B. An index of public records of each agency is available through the archives
268 and records management program established under K.C.C. 2.12.035. The index may be
269 accessed on-line at the archive and records management program's web-site.

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

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

274 3. A variety of records is available on the county web-site at
275 www.kingcounty.gov. Requestors are encouraged to view the documents available on
276 the web-site before submitting a records request.

277 D.1. A person wishing to inspect or copy public records of an agency -is
278 encouraged to make the request in writing on the agency's request form, ~~if one exists.~~
279 ~~Otherwise the requestor should make the request which shall be created and maintained~~
280 ~~by letter, fax, or email addressed to the the agency's~~ public records officer and ~~including~~
281 ~~the following information: made available on the agency's website. The agency request~~
282 ~~form shall:~~

283 a. ~~name~~ recite that inspection of records is free, provide the per-page charge for
284 standard photocopies and indicate that the requestor;

285 ~~address~~ may inspect the records, receive a copy of ~~requestor;~~ the records or
286 inspect the records first and then select records to copy;

287 ~~other~~ b. prompt the requestor to provide contact information; including
288 ~~te~~ name, phone number, mailing address and ~~any~~ email address; if available;

289 ~~d. identification of~~ prompt the requestor to identify the public records
290 ~~adequate~~adequately for the public records officer or designee to locate the records; and

291 ~~e. d.~~ prompt the requestor to provide the date and time of day of the request.

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

294 3. If the requestor wishes to have copies of the records made instead of simply
295 inspecting them, the requestor should so indicate and make arrangements to pay for
296 copies of the records or a deposit. Charges for copies shall be made in accordance with
297 RCW 42.56.070.

298 NEW SECTION. SECTION 22. There is hereby added to K.C.C. chapter 2.12 a
299 new section to read as follows:

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

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

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

311 a. make the records available to the requestor for inspection or copying;

312 b. if copies are requested and payment of a deposit for the copies, if any, is
313 made or terms of payment are agreed upon, send the copies to the requestor;

314 c. provide to the requestor a reasonable estimate of when records will be
315 available;

316 d. if the request is unclear or does not sufficiently identify the requested
317 records, request clarification from the requestor. The clarification may be requested and
318 provided by telephone, in which case the public records officer shall make a written
319 record of the clarification. The public records officer or designee may revise the estimate
320 of when records will be available. If the requestor fails to clarify the request, the agency
321 need not respond to it; or

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

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

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

333 E. Some records are exempt from disclosure, in whole or in part. If the agency
334 believes that a record or any part of a record is exempt from disclosure and should be

335 withheld, the public records officer shall ~~state the specific exemption and~~ provide to the
336 requestor a writing identifying the record or portion withheld, the specific exemption
337 relied upon and the authority for the exemption. ~~If only a portion of a record is exempt~~
338 ~~from disclosure, but the remainder is not exempt, the public records officer shall redact~~
339 ~~the exempt portions, provide the nonexempt portions,~~ and indicate to the requestor the
340 authority briefly explaining how the exemption applies to the record or portion withheld,
341 including enough information for the redaction a requestor to make a threshold
342 determination of whether the claimed exemption is proper. If only a portion of a record
343 is exempt from disclosure, but the remainder is not exempt, the public records officer
344 shall redact the exempt portions and provide the nonexempt portions.

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

351 2. The requestor must claim or review the assembled records within thirty days
352 of the agency's notification to the requestor that the records are available for inspection or
353 copying. The agency shall notify the requestor in writing of this requirement and inform
354 the requestor that the requestor should contact the agency to make arrangements to claim
355 or review the records. If the requestor or a representative of the requestor fails to claim
356 or review the records within the time prescribed in this subsection F.2. or make other
357 arrangements, the agency may close the request ~~and refile the assembled records.~~ Other

358 public records requests may be processed ahead of a subsequent request by the same
359 person for the same or almost identical records, which may be processed as a new
360 request.

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

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

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

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

379 NEW SECTION. SECTION 23. There is hereby added to K.C.C. chapter 2.12 a
380 new section to read as follows:

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

383 B. When a requestor requests records in an electronic format, the agency's public
384 records officer shall provide the nonexempt records or portions of those records that are
385 reasonably locatable in an electronic format that is used by the agency and is generally
386 commercially available, or in a format that is reasonably translatable from the format in
387 which the agency keeps the record. Costs for providing electronic records are governed
388 by section 25.B. of this ordinance.

389 C. The agency may provide customized access under RCW 43.105.280 if the
390 record is not reasonably locatable or not reasonably translatable into the format
391 requested. The agency may charge a fee consistent with RCW 43.105.280 for the
392 customized access.

393 NEW SECTION. SECTION 24. There is hereby added to K.C.C. chapter 2.12 a
394 new section to read as follows:

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

404 B. King County and its agencies are prohibited by statute from disclosing lists of
405 individuals for commercial purposes.

406 NEW SECTION. SECTION 25. There is hereby added to K.C.C. chapter 2.12 a
407 new section to read as follows:

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

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

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

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

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

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

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

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

432 F. Charges for copies of material in the archival collection shall follow the
433 guidelines of the Washington state Archives and WAC 434-690-080.

434 NEW SECTION. SECTION 26. There is hereby added to K.C.C. chapter 2.12 a
435 new section to read as follows:

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

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

444 C. Any person may obtain court review of the denial of a public records request

445 | made ~~pursuant to~~ in accordance with RCW 42.56.550 at the conclusion of two business
446 | days after the initial denial regardless of any internal administrative appeal.

447 | NEW SECTION. SECTION 27. There is hereby added to K.C.C. chapter 2.12 a
448 | new section to read as follows:

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

455 | a. the name of the requestor;

456 | b. a summary of the request;

457 | c. the date the request was received; and

458 | d. the date the request was closed, if it has been closed.

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

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

468 SECTION 28. The public records officer of each county agency shall submit a
469 report by July 16, 2010, in the form of a paper original and an electronic copy, to the
470 clerk of the council, who shall retain the original and email an electronic copy to each
471 councilmember. The report shall briefly describe the steps the public records officer has
472 taken to implement this ordinance, including, but not limited to, the requirements in
473 sections 20.A. and 21.D.1. of this ordinance. The report may also provide a description
474 of any challenges that were encountered in the implementation and any suggestions for
475 additional legislation that would promote efficient access to public records."

476

477 **EFFECT: The proposed amendment:**

478 **1. Clarifies sections 1 through 7;**

479 **2. Makes clear in section 8 that an electronic copy of the budget is to be**
480 **made available to the public free of charge;**

481 **3. Makes clear in section 9 that it is the printed copy of the county code that**
482 **may be sold and that an electronic copy is to be made available to the public free of**
483 **charge;**

484 **4. Makes a technical correction in section 15;**

485 **5. Clarifies section 19;**

486 **6. In section 20, modifies the requirement that each county agency give**
487 **public notice of its public records officer and adds a provision about notice to be**
488 **provided on the agency's website, expands the scope of staff training that is**
489 **required, and clarifies certain other provisions in the section;**

490 7. In section 21, requires agencies to develop and use a standard disclosure
491 request form, specifies certain elements that the form must contain, requires that
492 oral disclosure requests be confirmed in writing, and clarifies the section;

493 8. In section 22, requires a written record to be made of telephone
494 clarifications of records requests, elaborates on the information that must be
495 provided regarding the withholding of documents or portions thereof, and clarifies
496 the section;

497 9. Adds new sections 27 and 28, requiring reports to the Council.

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King County
Metropolitan King County Council
Committee of the Whole

STAFF REPORT

Agenda Item No.: 12	Date:	15 July 2009
Ordinance No.: 2009-0351	Prepared by:	Nick Wagner

SUMMARY

Chapter 2.12 of the King County Code is the chapter related to public records. Proposed Ordinance 2009-0351 (Attachment 1, pp. 7-26 of these materials) would add new sections to chapter 2.12 in response to the Washington Attorney General's model rules on public records compliance. The proposed ordinance would also clarify and make technical changes to chapter 2.12.

At the committee's June 24 meeting, Council staff provided a high-level, introductory briefing on the ordinance.

At today's meeting, the team that drafted Proposed Ordinance 2009-0351 will brief the committee on the history and highlights of the ordinance and will respond to any questions that councilmembers might have. The ordinance is before the committee today for discussion only. The current plan is for the ordinance to be brought back before the committee at its July 29 meeting for discussion and possible action.

The following information was provided in the June 24 staff report. It is repeated here for councilmembers' convenience. Except for the proposed ordinance itself, the attachments to the June 24 staff report have been omitted because of their length.

BACKGROUND

RCW Chapter 42.56 is the Washington Public Records Act. The Act required the Washington Attorney General, by 1 February 2006, to:

[A]dopt by rule an advisory model rule for state and local agencies, as defined in RCW 42.56.010, addressing the following subjects:

- (a) Providing fullest assistance to [public records disclosure] requestors;
- (b) Fulfilling large requests in the most efficient manner;
- (c) Fulfilling requests for electronic records; and
- (d) Any other issues pertaining to public disclosure as determined by the attorney general. (RCW 42.56.570)

Attorney General’s Model Rules

WAC Chapter 44-14 (Attachment 2, pp. 27-68 of these materials) contains the model rules¹ and comments adopted by the Attorney General pursuant to RCW Chapter 42.56. The comments provide background on the origin and purpose of the Attorney General’s model rules:

The model rules are the product of an extensive outreach project. The attorney general held thirteen public forums all across the state to obtain the views of [public records] requestors and agencies. Many requestors and agencies also provided detailed written comments that are contained in the rule-making file. The model rules reflect many of the points and concerns expressed in those forums.

The model rules provide one approach (or, in some cases, alternate approaches) to processing public records requests. Agencies vary enormously in size, resources, and complexity of requests received. Any “one-size-fits-all” approach in the model rules, therefore, may not be best for requestors and agencies. (WAC 44-14-00001)

Although “[t]he attorney general encourages state and local agencies to adopt the model rules (but not necessarily the comments) by regulation or ordinance” (WAC 44-14-00001), the comments make clear that “[t]he model rules, and the comments accompanying them, are advisory only and do not bind the agency.” (WAC 44-14-00003) Nevertheless, “[w]hile the model rules and comments are nonbinding, they should be carefully considered by requestors and agencies.” (WAC 44-14-00003)

PROPOSED ORDINANCE 2009-0351

As described in the Executive’s transmittal letter, Proposed Ordinance 2009-0351 is intended to be King County’s response to the Attorney General’s model rules. The ordinance “seeks to clarify the policies surrounding how public records requests are handled in King County.” It was prepared by a team consisting of:

- the Clerk of the Council;
- the County Code Reviser;
- the Records and Licensing Services Division;
- the County Public Disclosure Officer; and
- the Prosecuting Attorney’s Office.

In addition, the proposed ordinance “was reviewed, commented on, and recommended for approval by the county’s Public Records Committee.”

¹ Although RCW 42.56.570 instructed the Attorney General to adopt “an advisory model rule” (in the singular), WAC Chapter 44-14 consistently refers in the plural to “the model rules.”

Changes proposed in county code

The text of Proposed Ordinance 2009-0351 (Attachment 1, pp. 7-26 of these materials) shows which provisions represent changes or additions to the current county code. The following list includes some of the more notable proposed changes from the current code provisions:

1. The term “agency” is defined to mean any of the following: the executive branch (excluding the superior court clerk), the Council, the Sheriff, the Assessor, the Prosecuting Attorney, or the Elections Director. (Attachment 1, lines 51-64, pp. 9-10 of these materials)
2. “A [public records] request to one agency does not constitute a request to any other agency. A separate request must be made to each agency for which access to public records is requested or assistance in making such a request is sought.” (Attachment 1, lines 233-236, p. 17 of these materials)
3. Each agency is required to appoint a public records officer, whose name and contact information must be posted at the agency’s “primary location.” (Attachment 1, lines 227-229, p. 17 of these materials)
4. The Clerk of the Council, instead of the Council Administrator, is made officially responsible for preparing permanent records of Council proceedings. (Attachment 1, lines 78-83, p. 10 of these materials)
5. An agency’s records retention schedules for current records are permitted to serve as the agency’s public records index that is required under state law (RCW 42.56.070(3)) (Attachment 1, lines 100-104, p. 11 of these materials), though there is also a provision stating that such an index is available through the county’s archives and records management program (Attachment 1, lines 250-252).
6. The county is required to “[p]rovide education and training within an agency to ensure that public records are protected from damage or disorganization.” (Attachment 1, lines 238-242)
7. Procedures are prescribed for making public records available for inspection and copying (Attachment 1, lines 245-397, pp. 18-24 of these materials). The description of these procedures constitutes most of the proposed ordinance. The proposed ordinance covers such issues as: procedures and timelines for responding to public records requests (lines 245-342), including electronic records (lines 343-356); clarification of such requests (lines 290-294, 297-301); fees to be charged for providing copies of records (lines 370-397); procedures for withholding records or portions thereof that are exempt from disclosure (lines 295-296, 357-369).
8. Procedures are prescribed for making objections to denial of public records requests and for administrative and judicial review of such denials. (Attachment 1, lines 398-408, pp. 24-25 of these materials)

Attorney General model rules and comments not adopted

Though Proposed Ordinance 2009-0351 states that the rules it proposes are “based on chapter 44-14 WAC” (i.e., the Attorney General’s proposed model rules and comments), the proposed ordinance specifically provides that it is not adopting the Attorney General’s proposed model rules and comments. (Attachment 1, lines 200-202, p. 16 of these materials)

Although a comparison of Proposed Ordinance 2009-0351 with the Attorney General’s model rules and comments is not complete, some differences have been identified. For example:

1. **County as “agency.”** Unlike the proposed ordinance, which treats the county as six separate “agencies” and requires separate public records requests to each applicable agency (Attachment 1, lines 51-64, 233-236, pp. 9-10, 17 of these materials), the Attorney General’s comments provide in part: “[T]he act defines the county as a whole as an ‘agency’ subject to the act. RCW 42.17.020(2) [now RCW 42.56.010(1)]. An agency should coordinate responses to records requests across departmental lines.” (WAC 44-14-01001)
2. **Records request form.** The proposed ordinance does not require agencies to provide a records request form and contemplates the possibility that they may not (Attachment 1, line 261, p. 18 of these materials), whereas the Attorney General’s comments provide in part: “An agency should have a public records request form.” (WAC 44-14-03006)
3. **Oral requests.** The proposed ordinance does not seem to provide for a records request to be made orally (*see* Attachment 1, lines 260-270, pp. 18-19 of these materials), whereas the Attorney General’s comments, while allowing agencies to “strongly encourage” the submission of requests in writing, also provide for the possibility of oral requests: “If an agency receives an oral request, the agency staff person receiving it should immediately reduce it to writing and then verify in writing with the requester that it correctly memorializes the request.” (WAC 44-14-03006)
4. **Scope of explanation of withholding of records.** Although the proposed ordinance requires, when an exempt record (or part thereof) is withheld, that “the public records officer shall state the specific exemption and provide the authority for the exemption” (Attachment 1, lines 306-309, p. 20 of these materials), it does not go as far as the Attorney General’s comments, which also call upon the agency to “provide a brief explanation of 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.” (WAC 44-14-04004(4)(ii)).
5. **Training.** The proposed ordinance requires the county to “[p]rovide education and training within an agency to ensure that public records are protected from damage or disorganization.” (Attachment 1, lines 238-242, p. 17 of these materials). The Attorney General’s comments seem to contemplate a need for training staff in how to respond to records requests: “Training is critical. . . . Training can be the difference between a satisfied requestor and expensive litigation.” (WAC 44-14-00005).

6. **Alternative dispute resolution.** The Attorney General's comments encourage both records requestors and agencies to resolve public records disputes through ADR mechanisms such as mediation and arbitration. (WAC 44-14-08003) ADR is not addressed in the proposed ordinance.

State Auditor's performance audit report

In May of 2008, the Washington State Auditor's Office issued a performance audit report entitled "Open Public Records Practices at 30 Government Entities." Some of the best practices identified in the report are listed below. Although not all best practices should necessarily be specified by ordinance, they might provide a helpful framework for considering Proposed Ordinance 2009-0351.

- A "culture of compliance" within public entities (together with a "culture of cooperation" among records requestors);
- Training: "Entities should provide training to all entity staff likely to encounter members of the public requesting public records. For example, training should be provided to front-line staff who come into daily contact with the public to assist them in recognizing when a request/inquiry from the public should be considered a records request";
- Prioritizing requests;
- Tracking and effective monitoring of requests;
- Monitoring email blocked by email filters;
- Central point of contact for public records (to improve monitoring of the public entity's efficiency and effectiveness in responding to records requests): "The entity should avoid redirecting the requestor to another department, office or division."
- Visible signage (to assist requestors in directing their requests);
- Transparency and communication (e.g., a "user-friendly Web site");
- Waiver of charges for small requests (where "the costs associated with processing the payment alone will likely not be recovered by the fees collected").

FISCAL IMPACT

According to the Executive, "There is no cost associated with this proposed ordinance."

NEXT STEPS

Council staff work on the ordinance will continue. As currently planned, Proposed Ordinance 2009-0351 will be brought back before the committee on July 29 for discussion and possible action. The briefing at that meeting is expected to include possible options for councilmembers to consider.

INVITEES

- 1. Tony Adams, Archives, Records Management, & Mail Services, Records and Licensing Services Div., DES
- 2. John Gerberding, Supervising Attorney, County Services and Finance, Prosecuting Attorney's Office
- 3. Anne Noris, Clerk of the Council, Metropolitan King County Council
- 4. Kelli Williams, King County Public Disclosure Officer
- 5. Val Wood, Deputy Director, Records and Licensing Services Division, DES

ATTACHMENTS

Page

- 1. Proposed Ordinance 2009-0351 7
- 2. WAC Chapter 44-14 [omitted]
- 3. Table summarizing Proposed Ordinance 2009-0351 [omitted]
- 4. State Auditor’s Performance Audit Report (excerpts) [omitted]
- 5. Transmittal letter [omitted]