

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 742

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,
AMENDING CHAPTER 2.35 PUBLIC RECORDS TO THE SHORELINE
MUNICIPAL CODE.**

WHEREAS, Washington's Public Records Act, Chapter 42.56 RCW, requires that the City of Shoreline establish reasonable rules and regulations so as 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 City; and

WHEREAS, such rules and regulations are to provide for the fullest assistance to inquiries and the most timely possible action on requests; and

WHEREAS, the City has previously adopted rules and regulations for responding to public records requests, including on August 14, 1995, when the City adopted Ordinance No. 47 which established procedures for the disclosure of public records, codified as SMC Chapter 2.35, and on July 10, 2006, when the City adopted Ordinance No. 435, updating SMC 2.35; and

WHEREAS, the City desires to update SMC 2.35 in order to conform with amendments to the Public Records Act that have occurred since 2006 and to allow for the City Manager to establish and amend, as necessary, a separate Public Records Act Policy that is consistent with the intent of the Public Records Act, sets forth the procedures for the processing of public records request and allows the City greater flexibility in processing requests so as to better respond to such requests;

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

Section 1. Amendment - SMC Chapter 2.35. SMC Chapter 2.35 is amended as provided in Exhibit A.

Section 2. Severability. If any portion of this chapter is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of this chapter.

Section 3. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

ORIGINAL

PASSED BY THE CITY COUNCIL ON APRIL 18, 2016



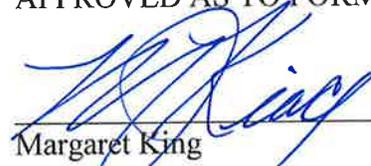
Mayor Christopher Roberts

ATTEST:



Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:



Margaret King
City Attorney

Date of Publication: April 21, 2016
Effective Date: April 26, 2016

Chapter 2.35
PUBLIC RECORDS

ORIGINAL

Sections:

- 2.35.010 ~~Relationship to Public Records Act.~~ Authority and purpose.
 2.35.020 ~~Disclosure.~~ Scope of rules authorized.
 2.35.030 ~~Definitions.~~ Records Index.
 2.35.040 ~~Maintenance.~~ Employee responsibility.
 2.35.050 ~~Exemptions.~~ Categories of requests.
 2.35.060 ~~Procedure for inspection or copying.~~
 2.35.0760 Reimbursement for copying costs.
 2.35.0870 ~~Decision on requests~~ Procedure for review of decision. Exemptions.
 2.35.090 ~~Disclosure prohibited by other statutes.~~
 2.35.100 ~~Administrative rules.~~

2.35.010 ~~Relationship to Public Records Act.~~ Authority and purpose.

A. The Washington State Public Records Act (Act), Chapter 42.56 RCW, requires the City of Shoreline (City) to make available for inspection and copying public records in accordance with the City's published rules. The Act defines "public record" as any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" regardless of physical form or characteristics.

B. The City Manager is authorized to establish a Public Records Act Policy to adopt reasonable rules, consistent with the intent of the Act and the Model Rules in WAC 44-14, that provide the public full access to public records with "fullest assistance" to requestors and the "most timely possible action on requests", while protecting public records from damage and disorganization, preventing excessive interference with other essential functions of the City, and withholding certain public records from disclosure subject to various legal exemptions.

This chapter constitutes the city's rules and regulations to carry out and implement the Public Records Act, Chapter 42.56 RCW. Except as provided in this chapter, Chapter 42.56 RCW shall apply to disclosure of all city public records. [Ord. 435 § 1, 2006; Ord. 47 § 1, 1995]

2.35.020 ~~Disclosure.~~ Scope of rules authorized.

As required by the Act, the City has separately established a Public Records Act Policy (Policy) establishing reasonable rules for requesting public records and responding to requests for public records. The Policy will contain:

A. An agency description, the designation of a public records officer (officer), the officer's contact information, the hours and location for inspection of public records and the officer's responsibilities under the Public Records Act;

B. The procedure for making, responding to, inspecting and copying records requests; protecting records from damage or disorganization; preventing excess interference with Shoreline's other

essential functions; protecting the rights of others; providing “fullest assistance” to requestors and the “most timely possible action on requests.”

C. The Policy is posted on the City’s website at www.shorelinewa.gov/pdr.

~~Unless exempt from disclosure under this chapter, public records shall be available for inspection and copying in accordance with this chapter. [Ord. 47 § 2, 1995]~~

2.35.030 — Definitions. Records Index.

A. The Act requires the City to maintain and make available a current index of certain public records. However, the Act also provides that if maintaining such an index would be unduly burdensome, or would interfere with government operation, a City need not maintain such an index but it must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome.

B. All substantive and procedural rules of general applicability, including but not limited to ordinances and resolutions of the city council, minutes of the regular meetings of the city council, and statements of general policy, and all public contracts, deeds, easements and leases shall be indexed and maintained in the City Clerk’s Office for the use of the City and of the general public. The following Indices are also available on the City of Shoreline website, on the City Clerk’s page:

1. Final opinions
2. City policies
3. Planning policies and goals and interim and final planning decisions
4. Staff reports and City Council Minutes from 2000 – present

The Indices for the following are not published as to do so would be unduly burdensome:

1. Factual staff studies, factual consultant reports and studies, scientific reports and studies and other factual information derived from tests, studies, reports or surveys.
2. Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of the state government, or of any private party.

Pursuant to RCW 42.56.070 (4)(a) the records in subpart B are not maintained because the City has eight departments and each department produces its own factual and scientific reports and studies and their own consultants’ reports and studies. Each department also manages its own regulatory/supervisory/enforcement correspondence. Creating an index of reports and studies and of reports and studies and of regulatory/supervisory/enforcement correspondence and maintaining the indices would take an inordinate amount of agency time, interfering with agency day-to-day operations.

~~A. “Public record” means any writing, maps or drawings containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the city regardless of physical form or characteristics.~~

B. "Public records officer" means the city clerk or designee.

C. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion pictures, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated. [Ord. 435 § 2, 2006; Ord. 47 § 3, 1995]

2.35.040 Maintenance. Employee responsibility.

A. All City employees are responsible for assisting in identifying responsive records and facilitating thorough collection of records.

B. The City will comply with the training requirements in the Open Government Training Act RCW 42.56.150 and RCW 42.56.152.

~~A. All substantive and procedural rules of general applicability, including but not limited to ordinances and resolutions of the city council, minutes of the regular meetings of the city council, and statements of general policy, and all public contracts, deeds, easements and leases shall be indexed and maintained in the office of the city clerk for the use of the city and of the general public.~~

~~B. All other records of the city relating to the specific function or responsibility of a particular city department shall be maintained for the use of the department and the general public in the office of the department. The department shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records:~~

- ~~1. Final opinions and orders made in the adjudication of cases;~~
- ~~2. Statements of policy and interpretations of policy which have been adopted by the city;~~
- ~~3. Administrative staff manuals and instructions to staff that affect a member of the public;~~
- ~~4. Planning policies and goals, and interim and final planning decisions;~~
- ~~5. Factual staff reports and studies, factual consultants' reports and studies, scientific reports and studies and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others;~~
- ~~6. Correspondence, and materials referred to therein, by and with the city relating to any regulatory, supervisory, or enforcement responsibilities of the city, whereby the city determines, opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party; and~~
- ~~7. The job classification, pay and tenure of employees hired by the city shall be public information. In addition, unless exempt from disclosure pursuant to RCW 42.56.230 and 42.56.050, records pertaining to an employee's: (a) prior employment history including names~~

of employers, titles or job classifications, and duties and responsibilities; (b) education including names of institutions, dates attended, and degrees obtained; and (c) occupational licensing shall be public information. [Ord. 435 § 2, 2006; Ord. 49 § 1, 1995; Ord. 47 § 4, 1995]

2.35.050 Exemptions. Categories of requests and standard response time.

A. When the City receives a public record requests it will be categorized according to its scope, the volume of public records being requested, the effort necessary to conduct an adequate search, and the need for redacting exempt information.

B. The City must make public records available promptly when requested under the Act. If records cannot be made available within five business days, the Act requires a written response to the requestor. The City may acknowledge receipt and provide a reasonable estimate of the time necessary to make the record available. The Policy shall establish estimates for standard response periods for each records request category.

All records listed in Chapter 42.56 RCW, as amended, are exempt from public inspection, including but not limited to:

1. ~~Personal information in files maintained for employees, appointees, or elected officials, to the extent that disclosure would violate their right to privacy, as defined in RCW 42.56.050.~~
2. ~~Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would be prohibited to such persons by RCW 82.32.330 or violate the taxpayer's right to privacy, as defined in RCW 42.56.050, or result in unfair competitive disadvantage to the taxpayer.~~
3. ~~Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy, as defined in RCW 42.56.050.~~
4. ~~Credit card numbers, debit card numbers, electronic check numbers, card expiration dates or bank or other financial account numbers except when disclosure is expressly required by or governed by other law.~~
5. ~~Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property; provided, that if at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern.~~
6. ~~Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.~~
7. ~~Except as provided by Chapter 8.26 RCW, the contents of real estate appraisals made for or by any agency including the city relative to the acquisition or sale of property; until the project~~

~~or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.~~

~~8. Valuable formulae, designs, drawings, and research data obtained by the city within five years of the request for disclosure when disclosure would produce private gain and public loss.~~

~~9. Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the city in connection with any city action.~~

~~10. Records which are relevant to a controversy to which the city is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.~~

~~11. Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.~~

~~12. Financial and commercial information and records supplied by businesses during application for loans or program services provided by Chapters 43.160, 43.163, 43.168 and 43.330 RCW.~~

~~13. All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.~~

~~14. The residential addresses and residential telephone numbers of employees or volunteers of the city which are held by the city in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.~~

~~15. The residential addresses and residential telephone numbers of the customers of a city utility contained in the records or lists held by the city utility of which they are customers.~~

~~16. Client records maintained by the city under any domestic violence program as defined in RCW 70.123.020 or 70.123.075 or rape crisis center as defined in RCW 70.125.030.~~

~~17. Information that identifies a person who, while a city employee:~~

~~a. Seeks advice, under an informal process established by the city, in order to ascertain his or her rights in connection with a possible unfair practice under Chapter 49.60 RCW against the person; and~~

~~b. Requests that his or her identity or any identifying information not be disclosed.~~

~~18. License applications under RCW 9.41.070.~~

~~19. Information revealing the identity of child victims of sexual assault who are under age 18. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.~~

~~20. A law enforcement authority may not request inspection or copying of records of any person, which belong to a city electrical utility, unless the authority provides the city electrical utility with a written statement in which the authority states that it suspects that the particular person to whom the records pertain has committed a crime and the authority has a reasonable belief that the records could determine or help determine whether the suspicion might be true.~~

~~21. Names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program; however, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.~~

~~22. Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license.~~

~~23. Attorney-client privileged communications under RCW 5.60.060.~~

~~24. Abstracts of driving records under RCW 46.52.130(2).~~

~~25. Any other record which is exempt from disclosure under any state law.~~

~~B. The exemptions from public disclosure set forth in this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.~~

~~C. Inspection or copying of any specific records exempt under this section may be permitted if the King County superior court finds, after a hearing with notice thereof to every person interested and to the city, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.~~

~~D. Nothing in this section shall affect a positive duty of the city to disclose or a positive duty to withhold information, which duty to disclose or withhold is contained in any other law. [Ord. 435 § 3, 2006; Ord. 47 § 5, 1995]~~

~~2.35.060 — Procedure for inspection or copying.~~

~~A. Persons wishing to inspect or copy city records shall first make such request to the public records officer or the city department which maintains the requested records. If the requester does not know which department maintains the records, the request shall be made to the public records officer. All assistance necessary to help the requester locate the particular record shall be provided promptly either by the public records officer or by the particular department maintaining the records. The provision of such assistance shall not unreasonably disrupt the normal operations of the public records officer, the department, or the assisting employee.~~

~~B. The public records officer or other city employee shall not distinguish among persons requesting records. Persons requesting records shall not be required to provide information as to the purpose for the request, except to establish whether the inspection or copying would violate RCW 42.56.070 or other statute or ordinance which exempts or prohibits disclosure of specific information or records to certain persons. [Ord. 435 § 4, 2006; Ord. 47 § 6, 1995]~~

2.35.0760 Reimbursement for copying costs.

A. A requestor may obtain paper copies or electronic scans of public records under RCW 42.56.120; the City will charge for these according to the Public Records Fee Schedule adopted in SMC 3.01.220.

~~Copies of written records, maps, photographs including slides, audio tape recordings, video tape recordings and digital recordings shall be provided by the city upon request and payment of the actual cost of reproducing the same, which cost shall be established by city council ordinance.~~

~~B. Labor and mailing costs shall be included in the cost of reproduction. The costs of reproduction provided for by resolution shall include, but not be limited to, the following records: street maps, zoning maps, zoning codes, ordinances, public meeting minutes, resolutions, verbatim transcripts, deeds, contracts, and other records of the character contemplated in SMC 2.35.010.~~

~~C. Where the request is for a certified copy, there shall be an additional charge in the amount established by city council ordinance to cover the additional expense and time required for certification.~~

~~D. The public records officer or a department may provide copies of city records at no charge to individuals or government agencies doing business with the city, if the public records officer or department determines such action is in the best interests of the city. [Ord. 435 § 5, 2006; Ord. 47 § 7, 1995]~~

2.35.0870 ~~Decision on requests – Procedure for review of decision.~~ Exemptions.

A. The Act provides that a number of documents and information are exempt from public inspection and copying. These exemptions are found in RCW 42.56.210 through RCW 42.56.480. In addition to exemptions found in RCW 42.56, other statutes outside of the Act may prohibit disclosure of specific information or records.

~~A. Upon receiving an oral or written request to inspect or copy a public record, the public records officer or the department shall grant the request unless the public records officer or department determines that the record requested may be exempt from disclosure in whole or in part, or if the record is not immediately available, in which case the public records officer or department shall request that the customer complete a written request for public records form. The public records officer shall document a request in writing when a customer declines to fill out the request form.~~

~~B. A department shall immediately deliver a request for public records to the public records officer.~~

~~C. Upon receiving a request for records, the public records officer shall determine whether the requested record is exempt by law from inspection and copying in whole or in part. Within five~~

business days of the date of receipt by the city of the written request for a record, the public records officer shall:

1. Provide the record; or
2. Acknowledge that the city has received the request and provide a reasonable estimate of the time the city will require to respond to the request; or
3. Deny the public record request.

Additional time to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt. If a public records request is unclear, the public records officer may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request, the city need not respond to the request.

D. If the public records officer determines that the document is exempt in part but can be made available after deletion of exempt portions, or after deletion of portions which would violate personal privacy or vital governmental interests, the request shall be granted; provided, that such exempt portions shall first be deleted. If the public records officer determines to deny the request, in whole or in part, a written statement of the specific reasons for the denial shall be provided to the requester.

E. A decision by the public records officer denying inspection shall be reviewed by the city attorney. Such review shall be deemed complete at the end of the second business day following the denial of inspection and shall constitute final city action for the purposes of judicial review. The requester shall be notified by mail of the decision to grant or deny the request. [Ord. 435 § 6, 2006; Ord. 47 § 8, 1995]

~~2.35.090 — Disclosure prohibited by other statutes.~~

~~The city shall not be required by this chapter to permit public inspection and copying of any record to the extent public disclosure of the record is prohibited, restricted or limited by any state or federal statute or regulation including, but not limited to, Chapter 10.97 RCW, the Washington State Criminal Records Privacy Act, Chapter 13.50 RCW, relating to release of records by juvenile justice or care agencies, or Chapter 46.52 RCW, relating to accident reports and abandoned vehicles. [Ord. 47 § 9, 1995]~~

~~2.35.100 — Administrative rules.~~

~~The city manager may issue rules for the implementation of this chapter. [Ord. 47 § 10, 1995]~~