

**CITY OF BAINBRIDGE ISLAND
PUBLIC RECORDS ACT ADMINISTRATIVE RULES**

The Public Records Act, RCW 42.56 (the “Public Records Act”), requires public agencies to make identifiable, non-exempt public records available for inspection and copying upon request and to publish rules of procedure to inform the public how access to public records will be accomplished. The City of Bainbridge Island’s rules are set forth in Chapter 2.80 of the Bainbridge Island Municipal Code (BIMC). Pursuant to BIMC Section 2.80.110, the City Manager may issue administrative rules for the implementation of Chapter 2.80 BIMC.

The purpose of the Public Records Act is to provide the public full and timely access to information concerning the conduct of government, mindful of individuals’ privacy rights and the desirability of efficient administration of our City government. The Public Records Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Public Records Act, the City will be guided by the provisions of the Public Records Act describing its purposes and interpretation. Failure to comply with any provision of these rules shall not result in any liability imposed upon the City other than that required in the Public Records Act.

Section 1. Definitions/Explanations.

- a. **Public record.** A public record is a writing, regardless of physical form, 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. Even if the City does not possess a particular document, a document may be “used” by the City if it was considered in any decision-making process.
- b. **Writing.** A writing is any handwriting, typewriting, printing, photo stating, photographing, and any other means of recording any form of communication, including, but not limited to, letters, words, pictures, sounds or symbols or their combinations; papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including data compilations from which information may be obtained or translated. An email is a writing.
- c. **Identifiable record.** An identifiable record is one in existence at the time the records request is made and that City staff can locate after a reasonable search.
- d. **Exempt record.** All identifiable City records are available for review by the public unless they are specifically exempted or prohibited from disclosure by state or federal law, either directly in RCW 42.56 or other statutes. For information related to Public Record Exemptions please see Municipal Research Service Center’s (MRSC) publication “Public Records Act for Washington Cities, Counties and Special Purpose Districts” on the City’s website under Public Records Requests.

- e. **Email.** Classification of emails as public records is dependent on the content of the message. Email messages are public records when they are created or received in the transaction of public business.
- f. **Bot request.** A request for public records that the City reasonably believes was automatically generated by a computer program or script.

Section 2. Public Records Officer.

Any person wishing to request access to public records or seeking assistance in making a request should contact the City's Public Records Officer. The Public Records Officer will coordinate compliance with the Public Records Act but may designate other City staff members who may process requests for public records. The Public Records Officer or his or her designees will assist requesters and help avoid having responses to public records requests cause excessive interference with the essential functions of the City. When using these Rules, references to the Public Records Officer should be interpreted to also include his or her designees.

Section 3. Availability of Public Records.

- a. **Hours for inspection.** Public records are available for inspection and copying during the City's customary office hours: Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding legal holidays. City staff and the requester may make mutually agreeable arrangements for times of inspection and copying. However, the City shall have the right to set the hours for inspection.
- b. **Place of inspection.** Records will be made available for inspection as determined by the Public Records Officer. A requester shall not take City records from City offices without the permission of the Public Records Officer.
- c. **Electronic access to records.** A variety of records are available on the City's website at: www.bainbridgewa.gov. To the extent practical, the City will store, maintain, and make its commonly requested records available electronically on its website. The City maintains an open public records portal at <https://bainbridgewa.nextrequest.com/> and will respond to most requests through the portal for those seeking responsive records in electronic format. The open public records portal is the functional equivalent of an FTP site and allows the City to share public records request responses more broadly with the public. The City may provide access to public records by providing links to the website containing an electronic copy of the record. The Public Records Officer will work with the requester to determine the most appropriate method for providing electronic copies of responsive records and may provide records on disc or transmit the responsive record via email.
- d. **Records index.** Ordinance No. 2001-17, adopted by City Council on May 23, 2001, determined that maintaining a central index of City records is unduly burdensome, costly, and would interfere with City operations due to the number and complexity of records generated as a result of the wide range of City activities.
- e. **Organization of records.** Records that relate to the specific function or responsibility of a particular department shall be maintained in the offices of that department. City

departments will maintain records in a reasonably organized manner, and the City will take reasonable actions to protect records from damage and disorganization.

- f. **Retention of records.** The City is not required to retain all records it creates or uses. The State Attorney General's Local Records Committee approves a general retention schedule for local agency records (including cities) that are common to most agencies. Retention schedules vary based on the content of the record. Public records may not be destroyed per a retention schedule if a public records request or actual or anticipated litigation is pending.

Section 4. Making a Request for Public Records.

- a. **Request for records other than Police records.** Requests to inspect or copy City records, other than Police records, should be made to the Public Records Officer at:

Public Records Officer
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8618 (phone)
publicrecords@bainbridgewa.gov

<https://bainbridgewa.nextrequest.com/>

- b. **Requests for Police records:** Requests to inspect or copy records maintained by the City's Police Department should be made to the Senior Police Clerks at:

Bainbridge Island Police Department
625 Winslow Way East
Bainbridge Island, WA 98110
(206) 842-5211
<https://bainbridgewa.nextrequest.com/>

- c. **Internet access to records.** Many records are also available on the City of Bainbridge Island's website at: www.bainbridgewa.gov. Previous responses to records requests are available through the City's open public records portal at <https://bainbridgewa.nextrequest.com>. Requesters are encouraged to view the documents available on the website prior to submitting a public records request.
- d. **Form of request.** There is no required form for a public records request. A requester must provide the City with reasonable notice that the request being made is for public records. If a request is contained in a larger document unrelated to a public records request, the requester should point out the public records request by labeling the front page of the document as containing a public records request or otherwise calling the request to the attention of the Public Records Officer to facilitate timely response to the request.

Any person wishing to inspect or copy identifiable public records of the City should make the request in one of the following ways:

- Through the open public records portal at <https://bainbridgewa.nextrequest.com> (preferred);
- On the provided request form (available online at www.bainbridgewa.gov);
- By letter, fax, phone call or e-mail addressed to the Public Records Officer; or
- In person at City Hall.

The following information should be included in the request:

- Name and address of requester;
- Other contact information, including telephone number and email address;
- Sufficient identification of the requested records to reasonably enable the Public Records Officer to locate the records; and
- The date and time of day of the request.

The Public Records Officer may accept requests for public records that contain the above information by telephone or in person. If an oral request is made, the Public Records Officer will confirm receipt of the information and the substance of the request in writing as well as the necessary contact information from the requester so that the City can respond. The confirmation will be deemed the correct statement of the scope of the request unless the requester responds with a different statement of the scope. All public records requests will be entered into the open public records portal. Requests for police records will only be visible to the assigned City staff and the requester.

- e. **Prioritization of records.** The Public Records Officer may ask a requester to prioritize the records he or she is requesting so that the most important records may be provided first. A requester need not prioritize a request.
- f. **Copies.** If the requester wishes to have copies or scans of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to make a deposit or pay for the copies or scans, as further discussed in Section 10. Costs for copies and scans are set out on the Fee Schedule as established by resolution of the City Council and is available through a link on the City's website or may be obtained by contacting the Public Records Officer.
- g. **Purpose of request.** A requester need not state the purpose of the request. However, in an effort to clarify or prioritize a request and provide responsive records, the Public Records Officer may inquire about the nature or scope of the request. If the request is for a list of individuals, the Public Records Officer may ask the requester if he or she intends to use the records for a commercial purpose. The City is not authorized to provide lists of individuals for commercial purposes. The Public Records Officer may also seek sufficient information to determine if another statute may prohibit disclosure.
- h. **Overbroad requests.** The City may not deny a request for identifiable public records solely because the request is overbroad. However, the City may seek clarification, ask the requester to prioritize the request so that the most important records are provided first,

and/or communicate with the requester to limit the size and complexity of the request. The City may also provide the responsive records in installments over time. When a request uses an inexact phrase such as “all records relating to” and declines to clarify the scope of the request, the Public Records Officer may interpret the request to be for records which directly and fairly pertain to the topic. The phrase is inherently ambiguous, and requesters are encouraged to avoid using the phrase when possible to avoid unnecessary delays. When the requester has found the records he or she is seeking, the requester should advise the Public Records Officer that the requested records have been provided and the remainder of the request may be cancelled. A request for all or substantially all records prepared, owned, used, or retained by the City is not a valid request for identifiable records under the Public Records Act.

- i. **Existing records.** Records requests may only encompass existing records. They cannot be used to obtain copies of records not yet in existence or in the possession of the City.
- j. **Bot request.** The City will deny a bot request that is one of multiple requests from the requestor to the agency within a twenty-four-hour period, if the City determines that responding to the multiple requests would cause excessive interference with other essential functions of the City.

Section 5. Processing Public Records Requests.

- a. **Providing “fullest assistance.”** Mindful of the requirements of RCW 42.56.100, to the extent reasonably possible, the Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.
- b. **Acknowledging receipt and fulfilling requests.** Within five business days of receipt of the request, not including the day the request was received as provided by RCW 1.12.040, the Public Records Officer will do one or more of the following:
 - 1. Make the record available for inspection or copying;
 - 2. If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requester;
 - 3. Acknowledge that the request has been received and provide a reasonable estimate of when records will be disclosed in whole or in part depending on whether the records are being provided in installments;
 - 4. If the request is unclear or does not sufficiently identify the requested records, request clarification from the requester. Such clarification may be requested and provided by telephone; or
 - 5. Deny the request, specifying the reasons for denial.

The City may respond to a request to provide access to a record by providing the requester with a link to the City’s web site containing an electronic copy of that record if it can be determined that the requester has internet access.

- c. **Additional time.** If not able to fulfill the request within the 5-business-day period, the Public Records Officer will provide a reasonable estimate of the time it will take to fully respond to the request. Additional time to provide access to records may be needed to clarify the scope of the request, locate and assemble the records, redact confidential information, prepare an exemption log, notify third party persons or agencies affected by the request or consult with the City Attorney about whether any portion of the records is exempt from disclosure. The Public Records Officer should briefly explain the basis for the time estimated to respond. Should an extension of time be necessary to fulfill the request, the Public Records Officer will provide a revised estimate and explain the changed circumstances that make it necessary.
- d. **Notification that records are available.** If the requester has sought to inspect the records, the Public Records Officer will notify him or her that the entire response or an installment is available for inspection and ask the requester to contact the City to arrange a mutually agreeable time for inspection. If the requester seeks copies or scans, the Public Records Officer should notify him or her of the projected costs and whether a deposit is required before making the copies or scans.
- e. **Consequences of failure to respond.** If the City does not respond in writing within five business days of receipt of the request for disclosure, the requester should contact the Public Records Officer to determine whether the request has been received by the City.
- f. **Requesting clarification.** At the time of the City's initial response, or subsequent to the City's initial response, the City may require the requester to clarify the request in order to provide the City with information sufficient to allow the City to determine which records are being requested and whether such records relating to the request exist. If the requester fails to respond to a City request to clarify the request within 30 days, and the entire request is unclear, the City may consider the request abandoned. Otherwise, the City must respond to those portions of the request that are clear. If the City considers the request abandoned, it shall notify the requester that the request is closed.
- g. **Searching for records.** The City will conduct a reasonable search for responsive records. The Public Records Officer will help determine where responsive records are likely to be located and involve Records Coordinators in other departments, as needed, to assemble the records. After the records are located, the Public Records Officer should take reasonable steps to narrow down the number of records assembled to those that are responsive. The City will not "bury" a requester with non-responsive documents. However, the Public Records Officer is allowed to provide arguably, but not clearly, responsive records to allow the requester to select the ones he or she wants, particularly if the requester is unable or unwilling to help narrow the scope of the documents being sought.
- h. **Preserving requested records.** If a requested record is scheduled shortly for destruction under the City's records retention schedule, the record cannot be destroyed until the public disclosure request has been resolved. Once a request has been closed, the City can destroy the record in accordance with the retention schedule.

- i. **Records exempt from disclosure.** Some records are exempt, in whole or in part from disclosure (see Section 7). If the City believes that a record is exempt and should be withheld, the Public Records Officer will state the specific exemption in a log and provide a brief explanation of why the record or a portion of the record is being withheld.
- j. **Redactions.** If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requester why portions of the record are being redacted. For example, the Public Records Officer shall redact identifying details such as social security numbers when he or she makes available or publishes any public record. In each case, the justification for the deletion shall be explained in writing.
- k. **Court protection of records (Third-party notice).** If the requested records contain information that may affect rights of others and may be exempt from disclosure, prior to providing the records the Public Records Officer may give notice to those whose rights may be affected by the disclosure. Generally, two weeks' notice will be given in order to make it possible to contact the requester and ask him or her to revise the request or, if necessary, allow affected individuals to seek an order from a court to prevent or limit the disclosure. The notice to the affected person(s) will include a copy of the request. Nothing in this section requires the City to provide such third-party notice, unless otherwise required by law.
- l. **Inspection of records.** To the extent possible, the Public Records Officer shall promptly provide space to inspect public records. The requester must claim, review or download the assembled records within thirty days of the Public Records Officer's notification that the records are available for inspection, download or copying. The Public Records Officer will notify the requester in writing of this requirement and suggest that he or she contact the agency to make arrangements to claim, download or review the records. If the requester or a representative of the requester fails to claim, download or review the records within the thirty-day period, or make other arrangements, the Public Records Officer may close the request and re-file the assembled records, if applicable. Other public records requests can be processed before a subsequent request by the same person for the same or almost identical records, which will be processed as a new request. The Act does not allow a requester to search through the City's files for records which cannot be identified or described to the City. Members of the public may not remove documents from the viewing area or disassemble or alter any document.
- m. **Providing copies of records.** The requester shall indicate which documents he or she wishes to have copied or scanned using a mutually agreed upon non-permanent method of marking the desired records. After inspection is complete, the Public Records Officer will arrange for copying or scanning. Making a copy of an electronic record is considered copying and not creating a new record.
- n. **Providing records in installments.** When a request is for a large number of records, the Public Records Officer will provide access for inspection and copying in installments if he or she reasonably determines that it would be practical to provide the records in that way. If the requester fails to inspect or download the entire set of records or one or more of the

installments within thirty days, the Public Records Officer may stop searching for the remaining records and close the request.

- o. **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer will indicate that the City has completed its search for the requested records and made any located non-exempt records available for inspection.
- p. **Closing withdrawn or abandoned requests.** If the requester withdraws the request, fails to fulfill his or her obligations to inspect or download the records, or fails to pay the deposit or final payment for the requested copies or scans, the Public Records Officer will close the request and indicate to the requester that the City has closed the request. The Public Records Officer will document closure of the request and the conditions that led to closure.
- q. **Later discovered documents.** If, after the Public Records Officer has informed the requester that the City has provided all available records, the City becomes aware of additional responsive documents that existed on the date of the request, the Public Records Officer will promptly inform the requester of the additional documents and provide them on an expedited basis.
- r. **No duty to create records.** The City is not obligated to create a new record to satisfy a records request; however, the City may, in its discretion, create such a new record to fulfill the request where it may be easier for the City to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request.
- s. **No duty to supplement responses.** The City is not obligated to hold current records requests open to respond to requests for records that may be created in the future. If a public record is created or comes into the possession of the City after a request is received by the City, it is not responsive to the request and will not be provided. A new request must be made to obtain later-created public records.
- t. **Requests for information.** Requests for information are not public records requests. An agency is not required to conduct research for a requester.
- u. **Multiple requests.** When the same requester simultaneously submits multiple, separate requests or makes one or more additional requests when previous requests are open, the City may queue the requests in the order in which they were received. The City is not required to work on an additional request until the initial requests are completed and closed. Requesters are responsible for informing the Public Records Officer if they want to reprioritize the fulfillment of their requests.
- v. **No access to City network or systems.** Requestors shall not be permitted to access or “plug into” City networks or systems or copy records using personal devices or equipment, such as USBs or scanners, which must be connected to City equipment in order to copy records.

- w. **Consequences of disclosing a record in error.** The City, and its officials, agents, employees, or custodians shall not be liable, nor shall a cause of action exist, for loss or damage based on release of a public record if the City, official, agent, employee, or custodian acted in good faith in attempting to comply with the Public Records Act.

Section 6. Processing Requests for Electronic Records.

- a. **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.
- b. **Providing electronic records.** If public records are requested in electronic form, the Public Records Officer will provide the nonexempt records in a generally commercially available electronic format that is used by the City.
- c. **Access to electronic records.** The Public Records Officer may provide a link to electronic records easily found on the City's website. Costs for providing electronic records are set out on the Fee Schedule.
- d. **Paper records provided electronically.** Paper records that are specifically requested to be provided electronically are subject to fees listed in the Fee Schedule.

Section 7. Exempt and Prohibited Disclosure of Public Records.

The City is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state or federal statute or regulation.

- a. The City of Bainbridge Island is prohibited by statute from disclosing lists of individuals for commercial purposes.
- b. The Public Records Act, RCW 42.56, provides that a number of document types and information are prohibited from being disclosed or are exempt from public inspection and copying.
- c. In addition, other statutes may exempt or prohibit disclosure of other documents and information.
- d. The Municipal Research and Services Center maintains an up-to-date list of current exemptions and prohibitions on their website at www.mrsc.org. A link is provided on the City's website under Public Records requests.

Section 8. Categories of requests.

The City receives a significant number of public records requests annually and must allocate staff resources in a manner that responds to each request thoroughly, correctly, and within required deadlines. In order to do so and maintain the City's ongoing regular service and functions, it is necessary to differentiate public records requests according to their complexity and the estimated staff time involved in completing the request. When a public records request is received, the Public

Records Officer and/or the designated department will categorize the request according to the nature, volume, and availability of the requested records as follows:

- a. **Category 1** records requests are routine or readily filled requests for easily identified and immediately accessible records requiring little or no coordination between departments. Examples include requests to review a permit file made at the Planning counter and requests for collision reports.
- b. **Category 2** records requests are routine requests that involve:
 - (i) more than one record or file, and/or
 - (ii) records not easily identified, located and accessible, and/or
 - (iii) records that require some coordination between departments.
- c. **Category 3** records requests are complex requests which involve:
 - (i) a large number of records, and/or
 - (ii) research by City staff or an email search, and/or
 - (iii) review by Public Records Officer to determine whether any of the records are exempt from production.
- d. **Category 4** records requests are complex requests that may be especially broad or vague which may involve:
 - (i) a large number of records that are not easily identified, located or accessible, requiring coordination between multiple departments, and/or
 - (ii) research by City staff who are not primarily responsible for public disclosure and/or
 - (iii) legal review and creation of an exemption log. These requests may require additional assistance from third parties.

After initial categorization, records requests may be re-categorized in response to unanticipated circumstances or additional information.

Section 9. Standard Time Periods for Response.

Mindful of the requirements of RCW 42.56.100 to provide the fullest assistance, to the extent reasonably possible, the Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner. The following standard periods for response to all categories of records requests are established as goals.

- a. **Category 1 records requests.** Generally, the City will respond to Category 1 records requests within five business days. If records cannot be made available within five business days, the City may extend the time to respond as described above.
- b. **Category 2 records requests.** The City will provide a written response to the requester within five business days with a reasonable estimate of the time necessary to make the records available. The estimate is made on a case-by-case basis. Depending on the nature and scope of the request, Category 2 requests usually require between 5 and 30 business days.
- c. **Category 3 records requests.** The City will provide a written response to the requester within five business days with a reasonable estimate of the time necessary to make the records available. The estimate is made on a case-by-case basis. Depending on the nature and scope of the request, Category 3 records requests may require several weeks to several months.
- d. **Category 4 records requests.** The City will provide a written response to the requester within five business days with a reasonable estimate of the time necessary to make the records available. The estimate is made on a case-by-case basis. Depending on the nature and scope of the request, Category 4 records requests may require several weeks to a year or more. In some instances, an estimate of the total amount of time needed to fulfill the request cannot be made until research is performed to identify the responsive records. The Public Records Officer will communicate with the requester in those instances to keep them informed of the progress on the request on a monthly basis.

Section 10. Costs of Providing Copies of Public Records

- a. **Costs for records, generally.** Except as explicitly provided herein and in the City's Fee Schedule, the City declares that it would be unduly burdensome to calculate the actual costs of providing public records due to the varying salaries of staff who fulfill public records requests, the burden of tracking time, and the varying costs of the copying equipment used City-wide. Therefore, the City adopts the standard fees prescribed for providing records in the Public Records Act. No fee is charged for locating records, inspecting records in person or for accessing records routinely made available on the City's website prior to receipt of a request unless the requester has specifically requested that the City provide copies of such records through other means. If requested by a requestor, the City shall provide a summary of the applicable charges before any copies are made, and the requester may revise a public records request to reduce the number of copies to be made and thereby reduce the applicable charges. Payment of fees is required prior to release of records unless other arrangements have been made. Detailed fees applicable to public records requests can be found in the City's Fee Schedule.
- c. **Sales tax.** The City will not charge sales tax on copies of records.
- d. **Use of other copying services.** The City is not required to copy records at its own facilities and may determine to use a commercial copying center for non-routine formats such as


photographs, blueprints or tape recording, large quantities, or when a requestor asks for delivery of copies faster than the City can process. In those instances, the requestor will pay the commercial copying center directly.

- e. **Deposit or payment by installments.** Before beginning to copy or scan records, the Public Records Officer or designee may require a deposit of up to ten percent of the estimated costs of copying or scanning the records selected by a requestor. The Public Records Officer may also require the payment of the remainder of the copying or scanning costs before providing all the records, or the payment of the costs of copying or providing electronic media in an installment before providing that installment.
- f. **Method of payment.** Payment may be made by cash, check, credit card, or money order to the City of Bainbridge Island.
- g. **Waiver of copying charges.** The Public Records Officer has the discretion to waive copying or electronic media charges for small requests, or for individuals or government agencies doing business with the City if the Public Records Officer determines that this action is in the best interest of the City.
- h. **Non-Payment.** If payment arrangements are not made within 30 calendar days of notice that records are available, the entire request may be deemed abandoned and closed. A reasonable attempt shall be made by the Public Records Officer to contact the requestor prior to deeming a request abandoned and closed.

Section 11. Denials of Requests for Public Records.

- a. **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including by email) to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request.
- b. **Consideration of petition for review.** The Public Records Officer shall promptly provide the petition and any other relevant information to the City Manager or his or her designee to conduct the review. The City Manager or his or her designee will promptly consider the petition and either affirm or reverse the denial within two business days following the City's receipt of the petition, or within such other time to which the City and the requestor mutually agree.
- c. **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

Approved:



Morgan Smith, City Manager