

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

The Public Records Act (the “Act”), RCW 42.56, 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 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 Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the City will be guided by the provisions of the 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 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, photostating, 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.** Email is an electronic system that uses computers for sending and receiving messages. 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.

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 requestors 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 requestor 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 requestor 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. For those seeking responsive records in electronic format, the City may provide access to public records by providing links to the website containing an electronic copy of the record, provide records on disk, or transmit the responsive record via email. The Public Records Officer will work with the requestor to determine the most appropriate method for providing electronic copies of responsive records. Records responses that exceed 100 pages will be provided on a disc due to email limitations, and such disc is subject to a fee as established by City Council resolution. For large requests that are provided in installments, the fee will be charged for each disc.
- 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.

Section 4. Making a Request for Public Records.

- a. **Where to Make a Request.** Requests to inspect or copy City 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) 842-2545 (phone)
(206) 780-8600 (fax)
publicrecords@bainbridgewa.gov

- b. **Internet access to records.** Many records are also available on the City of Bainbridge Island's website at: www.bainbridgewa.gov. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.
- c. **Form of request.** There is no required form for a public records request. A requestor 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 requestor 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:

- 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 requestor;
- 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 generally confirm receipt of the information and the substance of the request in writing as well as the necessary contact information from the requestor so that the City can respond. The confirmation will be deemed the correct statement of the scope of the request unless the requestor responds with a different statement of the scope.

- d. **Prioritization of records.** The Public Records Officer may ask a requestor to prioritize the records he or she is requesting so that the most important records may be provided first. A requestor need not prioritize a request.
- e. **Copies.** If the requestor 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.
- f. **Purpose of request.** A requestor 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 requestor 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.
- g. **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 requestor to prioritize the request so that the most important records are provided first, and/or communicate with the requestor 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. When the requestor has found the records he or she is seeking, the requestor should advise the Public Records Officer that the requested records have been provided and the remainder of the request may be cancelled.
- h. **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.

Section 5. Processing Public Records Requests. (see also attached summary)

- 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 requestor;

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 requestor. 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 requestor with a link to the City's web site containing an electronic copy of that record if it can be determined that the requestor has internet access and the requestor agrees that the request has been satisfied.

- c. **Additional time.** 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 the records are exempt from disclosure. 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 requestor 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 requestor to contact the City to arrange a mutually agreeable time for inspection. If the requestor 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 requestor should contact the Public Records Officer to determine the reason for failure to respond.
- f. **Consequences of failure to clarify a request.** If the requestor does not respond to the City's request for clarification within 30 days of the City's request, the Public Records Officer may consider the request abandoned, send a letter closing the response to the requestor, and re-file the records.
- 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 requestor with non-responsive documents. However, the Public Records Officer is allowed to provide arguably, but not clearly, responsive records to allow the requestor to select the ones he or she wants, particularly if

the requestor 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 requestor 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. **Protecting the rights of others.** 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 requestor 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.
- l. **Inspection of records.** To the extent possible due to other demands, the Public Records Officer shall promptly provide space to inspect public records. The requestor must claim or review the assembled records within thirty days of the Public Records Officer's notification that the records are available for inspection or copying. The Public Records Officer will notify the requestor in writing of this requirement and suggest that he or she contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period, or make other arrangements, the Public Records Officer may close the request and re-file the assembled records. 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 requestor 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 requestor 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 requestor fails to inspect 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 requestor withdraws the request, fails to fulfill his or her obligations to inspect 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 requestor that the City has closed the request. The Public Records Officer will document closure of the request and the conditions that led to closure in the public records request database.
- q. **Later discovered documents.** If, after the Public Records Officer has informed the requestor 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 requestor 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 requestor.

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 an electronic format, the public records officer will provide the nonexempt records or portions of such records

that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are set out on the fee schedule as established by resolution of the City Council and are available through a link on the City's website, or may be obtained by contacting the Public Records Officer.

- c. **Retaining electronic copies.** Because an electronic record is usually more susceptible to manipulation and alteration than a paper record, the City will keep, when feasible, an electronic copy of the electronic records it provides to a requestor to be able to show the exact records it provided if necessary.

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. A current list of the prohibitions, exemptions, and other statutes limiting the disclosure of records can be found at Municipal Research Service Center's publication "Public Records Act for Washington Cities, Counties and Special Purpose Districts" 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, 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.

- b. **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.
- c. **Category 2 records requests.** The City will provide a written response to the requestor 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.

- d. **Category 3 records requests.** The City will provide a written response to the requestor 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.
- e. **Category 4 records requests.** The City will provide a written response to the requestor 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.

Section 10. Costs of Providing Copies of Public Records

Per state law, the City is not allowed to charge for locating a public record or for making records available for review or inspection. The City may charge, however, for reimbursement of certain costs associated with copying public records.

- a. **Fee schedule.** The charge for standard black-and-white photocopies and scans is fifteen cents per page with exceptions listed in the Bainbridge Island fee schedule. The Public Records Officer will periodically update and post a fee schedule for various other nonstandard public records or those in other formats or media. The fee schedule may be found online at www.bainbridgewa.gov on the Public Records Requests webpage. A statement of the factors and manner used to determine the specific fees will be provided upon request to the Public Records Officer. If the City has to pay an outside firm for duplicating records in non-routine formats such as photographs, blueprints or tape recordings, the actual cost will be passed along to the requestor.
- b. **Certified copies.** Where the request is for a certified copy, an additional charge may be applied to cover the additional expense and time required for certification. Charges for certification may be found online at www.bainbridgewa.gov on the Public Records Requests webpage.
- c. **Faxing and mailing charges.** The City may also charge actual costs of long distance facsimile transmission and/or mailing, including the cost of the shipping container.
- d. **Sales tax.** The City will not charge sales tax on copies of records.
- e. **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. The City will bill the requestor for the amount charged by the vendor.
- 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

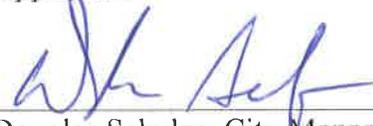
scanning costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

- 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 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.

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 after the initial denial regardless of any internal administrative appeal.

Approved:



Douglas Schulze, City Manager

March 23, 2015

SUMMARY OF INTERNAL PROCEDURES FOR PUBLIC RECORDS REQUESTS

COUNTER REQUEST

- A counter request is a request to review a department file or obtain an easily identifiable permit or record. These requests are Category 1 requests.
- Any request that asks for all records pertaining to a parcel or topic are not counter requests and should be sent to the Public Records Officer for a response.
- All requests for code compliance files are sent to the Public Records Officer.
- The requester (or staff if requester declines) completes a public records request form to document the request.
- The requester may remain anonymous.
- Counter requests may be fulfilled immediately by Planning staff if the file or record is on site.
- The request is sent to the Department's Administrative Assistant if the record is stored off-site or otherwise not immediately available.
- For requests not immediately fulfilled, the Department's Administrative Assistant logs in the request and tracks the 5 business day response.
- The Department's Administrative Assistant coordinates the response if multiple copies of records are requested.
- Photocopies and scans are charged in accordance with the City's Fee Schedule (the 1st 10 are free).
- Completed public records requests forms are forwarded to the Department's Administrative Assistant to be logged into the public records database.

OTHER PUBLIC RECORDS REQUESTS

- Immediately upon receiving a public records request in any form, forward the request to the Public Records Officer.
- If you have received a verbal request for a document, complete the Public Records Request form and forward it to the Public Records Officer.
- Some requests for information are difficult to distinguish from public records requests. If you are unsure, consult the Public Records Officer.
- The Public Records Officer categorizes the request.
- The Records Management Coordinator enters the request into the database, assigns a number to the request, and creates an electronic file folder.
- The Public Records Officer tracks the deadline for the initial response.
- The Public Records Officer contacts staff to ascertain the reasonable amount of time necessary to respond to the request, taking into consideration workload and staffing.
- The Public Records Officer provides the public record request number to staff so that they may track their time accordingly.
- The Public Records Officer coordinates searches of the email system when applicable.
- The Public Records Officer makes an initial response within 5 business days.
- The Public Records Officer coordinates any additional response and the gathering of records responsive to the request.

- If the Public Records Officer believes that any information contained in the responsive records is exempt, he or she creates a log of exempt documents and provides redacted documents, if applicable.
- The Public Records Officer may consult with the City Attorney on redactions or when withholding a record.
- The Public Records Officer will also determine if third-party notice is advisable.
- Once all requested documents have been provided with a log of exempt documents, if applicable, the Public Records Officer will provide notice to the requester that the request has been closed, and the Records Management Coordinator will enter the date of completion into the database.

POLICE DEPARTMENT REQUESTS

- Collision reports are handled by the Police Department. These requests are generally Category 1 requests.
- Requests for Police Incident reports that require redaction are forwarded to the Public Records Officer for review.
- Non-standard requests and requests from the media are forwarded to the Public Records Officer for consultation.