

ORDINANCE NO. 1271

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ZILLAH, WASHINGTON, RELATING TO PUBLIC RECORDS; ADOPTING NEW REGULATIONS GOVERNING THE DISCLOSURE OF PUBLIC RECORDS; AND REPEALING PROCEDURES SET FORTH IN THE CITY PERSONNEL MANUAL ADOPTED BY RESOLUTION NO. 97-05 RELATING TO THE PUBLIC DISCLOSURE ACT.

WHEREAS, the City of Zillah is a municipal corporation of the State of Washington which provides municipal and utility services to its residents and others; and,

WHEREAS, the Public Records Act, chapter 42.56 of the Revised Code of Washington (chapter 42.56 RCW), requires cities to adopt rules of procedure consistent with the intent of the Public Records Act, to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with essential City functions; and

WHEREAS, the Public Records Act requires the City to make public records available for inspection and copying, subject to certain exemptions; and

WHEREAS, the City Council supports the policy of the Public Records Act, to provide citizens with broad access to public records; and

WHEREAS, the City has previously adopted procedures for responding to public records requests as more particularly set forth in the City's Personnel Manual adopted by Resolution No. 97-05 and does hereby repeal all other previously adopted previously adopted procedures established, relating to, and dealing with public records requests; and

WHEREAS, RCW Chapter 42.56 requires the appointment of a Public Records Officer, for the City, to respond to public records requests and City intends to make such appointment in accordance with applicable law and local policy; and

WHEREAS, on August 1, 2011 the City adopted Policy No. 2011-01 which outlines procedure for responding to public records requests; and

WHEREAS, expanding provisions of this policy will allow for a more efficient and effective response to public records requests and will satisfy the requirements of the Public Records Act; and

WHEREAS, RCW Chapter 42.56 requires all cities and public agencies to maintain and make available a current index of various public records and RCW 42.56.070(4) provides that if maintaining such an index would be unduly burdensome, 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; and

WHEREAS, the City has a long standing and recognized policy of assisting people who request public information and of providing public records upon request and does not plan to deviate from that policy; and

WHEREAS, the City Council desires to formally establish a procedure for providing public records made under the Public Records Disclosure Act Chapter 42.56 RCW.

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

Section 1 Adoption of Regulations Relating to Public Records. The following regulations are hereby adopted.

PUBLIC RECORDS

1. **Relationship to Public Records Act.**

- A. This chapter constitutes the City's rules and regulations to carry out and implement the Public Records Act, chapter 42.56 RCW.

2. **Public Records Officers.**

- A. The City clerk shall serve as a public records officer for all City records except those maintained by the Zillah Police Department and the Zillah Fire/Building Department located outside of city hall.
- B. The designated Public Records Officer for the Zillah Police Department shall be the Police Chief.
- C. The designated Public Records Officer for the Zillah Fire Department and Building Department shall be the Fire Chief/Building Inspector.
- D. Contact information for the City Clerk, Police Chief, and Fire Chief/Building Inspector will be made available to the public in a manner reasonably calculated to provide notice of to whom members of the public may direct requests, such as posting such contact information at City Hall, the Police Department and the Fire/Building Department, and/or on the City's internet website.

3. **Maintenance of Records.**

- 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 by the City Clerk.
- B. All police records shall be maintained in the Zillah Police Department. Access to police records shall be in accordance with this Ordinance and applicable laws, including but not limited to, chapter 42.56 RCW, chapter 10.97 RCW (Criminal Records Privacy Act), and chapter 13.50 RCW (Keeping and Release of Juvenile Records).
- C. All other records of the City relating to the specific function or responsibility of a particular department shall be maintained for the use of the department and the general public in the office of the particular department. All such documents defined as "public records" in RCW Ch. 42.56 and may include, but not be limited to, final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases; Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency; Administrative staff manuals and instructions to staff that affect a member of the public; planning policies and goals, and interim and final planning decisions; factual staff reports and studies; factual consultant's reports and studies; scientific reports and studies; any other factual information derived

from tests, studies, reports or surveys, whether conducted by City employees or others; and 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 state government, or of any private party.

4. **Index of Public Records – Findings**

- A. The Public Records Act requires all cities and public agencies to maintain and make available a current index of all public records.
- B. RCW 42.56.070(4) provides that an agency need not maintain such an index if to do so would be unduly burdensome, but it must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome or would interfere with agency operations.
- C. The City is composed of numerous departments, their divisions and subdivisions, many if not all of which maintain separate databases and/or systems for the indexing of records and information.
- D. Because the City has records which are diverse, complex and stored in multiple locations and in multiple computer systems, formats and/or databases, it is unduly burdensome, if not physically impossible, to maintain a current index of all records.

5. **Index of Public Records – Order**

Based upon the findings set forth in section 4 above and pursuant to RCW 42.56.070(4), the City Council orders the following:

- A. The City is not required to maintain an all-inclusive index of public records due to the undue burden and near-impossibility of maintaining such an index.
- B. The City will make available for inspection and/or copying all public records, including any indexes that are maintained by the City as set forth in Section 3 above, except to the extent that such records are exempt from public disclosure.

6. **Disclosure of Public Records.**

Unless exempt from disclosure under chapter 42.56 RCW or other law, public records shall be available for inspection and copying in accordance with this ordinance and applicable state law including RCW Ch. 42.56.

7. **Procedure for Inspection of Copying.**

- A. All persons desiring to inspect or obtain a copy of any public record must make their request in writing to the appropriate Public Records Official. The Public Records Official shall create and make available for public use a standard form by which a requester may specify particular public records and provide the requester's relevant contact information. Reasonable assistance as may be necessary to help a requestor locate particular records shall be provided either by the Public Records Official or by the City department containing the records. PROVIDED that the provision of such assistance shall not unreasonably disrupt the normal operations of the Public Records Official, the department, or the assisting employee(s).
- B. Except to the extent required or authorized by law, the Public Records Official 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 of the request, except to establish whether the inspection or copying would violate chapter 42.56 RCW or other statute or ordinance that exempts or prohibits disclosure of specific information or records to certain persons.

8. Processing Public records Requests-Review of Decision.

- A. Responses to requests for public records shall be made promptly pursuant to chapter 42.56 RCW. Within five business days of the date of receipt by the City of a written request for a record, the Public Records Official shall:
 - 1. Provide a record; or
 - 2. Acknowledge that the City has received the request and (a) provide a reasonable estimate of the time the City will require to respond to the request, or (b) request clarification; or
 - 3. Deny the public records request in whole or in part.
- B. Public records may be made available on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for public inspection or copying. 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 request is unclear, the Public Records Official may ask the requestor to clarify what information the requestor is requesting. If the requestor fails to clarify the request, the City need not further respond to or process the request.
- C. If the Public Records Official determines that the document is exempt in part but can be made available after deletion of exempt portions, the request shall be granted; provided, that such exempt portions shall first be deleted. If the Public Records Official 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 requestor. PROVIDED, that nothing herein shall be construed as requiring the City to disclose portions of a requested document if the entire document is exempt from disclosure.
- D. In the event the Public Records Official denies inspection of all or any part of a request, the Public Records Official may seek review by the City Attorney. The Public Records Official will notify the requestor by mail of the decision to grant or deny the request.

9. Exemptions.

- A. The City adopts by reference the exemptions from public disclosure contained in chapter 42.56 RCW, including any future amendments thereto or re-codification thereof, along with any other exemption or exception to the Public Records Act provided by law, including but not limited to those exemptions.

10. Reimbursement for Copying Costs.

- A. No fee shall be charged for the inspection of public records. Any person who requests a copy of any public record from the City shall pay to the City Clerk or designee a copying charge. The copying charges for public records, including but not limited to photocopies, maps, photographs including slides, audio tape recordings, video tape recordings and diskettes shall be included in the most recently adopted City Rates Ordinance for the City of Zillah.

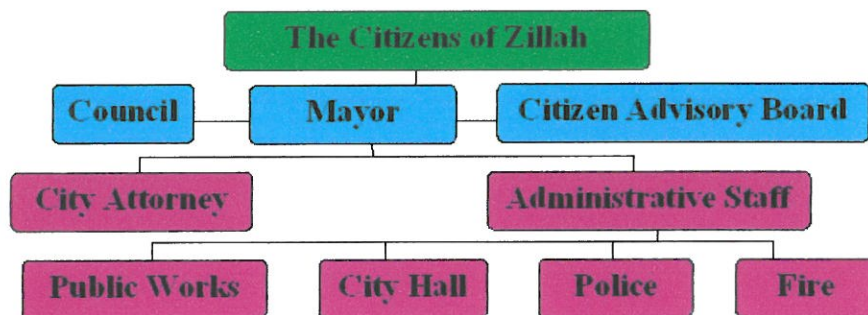
Nothing herein shall be construed to apply to charges for accident reports pursuant to RCW 46.52.085.

- B. The City may charge all costs directly incident to shipping such public records, including but not limited to the cost of postage or delivery charges and the costs of any container or envelope pursuant to RCW 42.56.070(7).
- C. The City may, at its discretion, require the requestor to deposit a sum in an amount not to exceed 10 percent of the estimated cost of providing copies for a request. Upon providing the public records the remaining 90% of the cost will be collected. If the records are made available on a partial or installment basis, the City may charge for each part of the request as it is provided. If an installment of a notice of records request is not paid for or reviewed within twenty days after the City provides notice of availability of the installment, the City is not obligated to fulfill the balance or the request.

11. **Model Rules and Administrative Procedure.**

- A. The City may, in its discretion, follow the Public Records Act Model Rules on file at the City Clerk's office. The Mayor, upon recommendation of the City Clerk, may issue additional administrative procedures for the implementation of this chapter.

12. **Organizational Chart.**

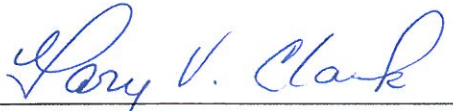


Section 2. Publication. A summary of this ordinance shall be published as required by law.

Section 3. Severability. If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall be in full force and effect five days after publication as required by law.

PASSED BY THE CITY COUNCIL FOR THE CITY OF ZILLAH, WAHSINGTON, this 1st
day of August, 2011.



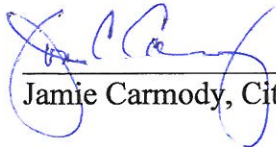
Gary Clark, Mayor

ATTEST:



Sharon Bounds, Clerk/Treasurer

APPROVED AS TO FORM:



Jamie Carmody, City Attorney

Date Published:

Effective Date: