



**King County**  
**Metropolitan King County Council**  
**Committee of the Whole**

**STAFF REPORT**

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

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**SUMMARY**

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

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

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

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

**BACKGROUND**

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

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

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

## **Attorney General's Model Rules**

WAC Chapter 44-14 (Attachment 2, pp. 27-68 of these materials) contains the model rules<sup>1</sup> and comments adopted by the Attorney General pursuant to RCW Chapter 42.56. The comments provide background on the origin and purpose of the Attorney General's model rules:

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

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

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

### **PROPOSED ORDINANCE 2009-0351**

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

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

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

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

## Changes proposed in county code

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

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

## Attorney General model rules and comments not adopted

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

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

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

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

### **State Auditor's performance audit report**

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

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

### **FISCAL IMPACT**

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

**NEXT STEPS**

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

**INVITEES**

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

**ATTACHMENTS**

**Page**

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



**Signature Report**

**July 14, 2009**

**Ordinance**

**Proposed No.** 2009-0351.1

**Sponsors** Ferguson, Dunn and Phillips

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

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

23

24 STATEMENT OF FACTS:

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

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

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

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

40 RCW 42.56.030.

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

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

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

48 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

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

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

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

60 2. The council;

61 3. The sheriff;

62 4. The assessor;

63 5. The prosecuting attorney; or

64 6. The elections director.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

154 5.) Each additional page \$5.00

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Ordinance**

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

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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ATTEST:

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APPROVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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**Attachments**      None