

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2017-19

SUBJECT: Public Records Act Amendment

CONFORM AS TO DATES & SIGNATURES

- ☒ Filed with the City Clerk: 10/26/2017
- ☒ Passed by the City Council: 11/01/2017
- ☒ Signature of Mayor
- ☒ Signature of City Clerk
- ☒ Publication: 11/10/2017
- ☒ Effective: 11/15/2017
- ☐ Recorded: _____

DISTRIBUTED COPIES AS FOLLOWS:

- ☒ NK Herald: 11/2/2017
- ☒ Code Publishing
- ☐ City Attorney
- ☒ Clerk's Department: Original
- ☐ City Council
- ☐ Finance:
- ☒ Posted to Library Drive and Website
- ☐ _____

Rhiannon Fernandez
City Clerk

11/2/2017
Date

ORDINANCE NO. 2017-19

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, REGARDING PUBLIC RECORDS; REPEALING CHAPTER 2.98 OF THE POULSBO MUNICIPAL CODE GOVERNING PUBLIC RECORDS AND ENACTING A NEW CHAPTER 2.98 IN ORDER TO REFLECT CURRENT STATE LAW; AMENDING SECTION 3.12.040 OF THE POULSBO MUNICIPAL CODE TO REFLECT RECODIFICATION OF THE PUBLIC RECORDS ACT; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Washington State Legislature passed two bills (HB 1594 and HB 1595) in the 2017 regular session amending certain provisions the Public Records Act, Chapter 42.56 RCW, effective July 23, 2017; and

WHEREAS, Chapter 2.98 of the Poulsbo Municipal Code establishes procedures for the maintenance and access to public records in accordance with Chapter 42.56 RCW, the Public Records Act; and

WHEREAS, the Poulsbo City Council desires to revise and update Chapter 2.98 of the Poulsbo Municipal Code comply with the recent amendments to the Public Records Act,

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

Section 1. Chapter 2.98 Repealed. Chapter 2.98 of the Poulsbo Municipal Code is hereby repealed.

Section 2. New Chapter 2.98 Enacted. A new Chapter 2.98 is of the Poulsbo Municipal Code is enacted, which shall read as follows:

2.98.010 Public Records Officer.

The city clerk is hereby designated as the city's public records officer. Contact information for the city clerk shall be made available in a manner reasonably calculated to provide the public with notice of this information, such as posting at Poulsbo City Hall or on the city's Internet site.

2.98.020 Indices of Records.

Pursuant to RCW 42.56.070, the City Council of the City of Poulsbo has declared that the indexing and maintenance of an index of all public records obtained by the city would be unduly burdensome and would interfere with the operations of the city. A current index as described in RCW 42.56.070 will therefore not be maintained by the city. The city clerk shall continue to make available for public inspection and copying all existing indexes maintained for use by the City of Poulsbo.

2.98.030 Exemptions.

The city hereby adopts by reference those exemptions from public inspection and copying described in Chapter 42.56 RCW, as the same may be amended from time to time. In addition, the city adopts as its current list containing every law, other than those listed in the Public Records Act, that it believes exempts or prohibits disclosure of specific information or records required under RCW 42.56.070(2) those exemptions set forth in Appendix C of "Public Records Act for Washington Cities, Counties, and Special Purpose Districts" by the Municipal Research and Services Center in September 2016, as may be amended from time to time. The office of the city clerk shall maintain a copy of this list. This section shall not limit the city's ability to deny a request or refuse disclosure under any other statute or source of law.

2.98.040 Procedure for inspection and copying.

A. Persons wishing to inspect or copy city public records shall file a request in person, by phone or by mail (U.S., special delivery, or electronic), or via the public records web portal to the public records officer. Pursuant to RCW 42.56.520, the city shall respond to the request for public records within five business days of receipt and shall either (1) provide the record, (2) provide an internet address and link on the city's web site to the specific records requested, except that if the requestor notifies the city that he or she cannot access the records through the internet, then the city must provide copies of the record or allow the requestor to view copies using a city computer, (3) acknowledge receipt of the request and provide a reasonable estimate of the time the city will require to respond to the request, (4) if the request is unclear, acknowledge the request and ask the requestor to clarify the request and provide, to the greatest extent possible, a reasonable estimate of the time the city will require to respond to the request if it is not clarified, or (5) deny the request. Additional time to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify

third persons or agencies affected by the request, or to determine whether any of the information requested is exempt. If the requestor fails to clarify a request when asked, the city must respond to the parts of the request that are clear. If the entire request is unclear and the requestor fails to respond to a request for clarification, the city need not respond to it.

B. Public records may be provided 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 disclosure. If an installment of a records request is not claimed or reviewed, the city is not obligated to fulfill the balance of the request.

C. Pursuant to RCW 42.56.070 and .120, the city may impose a reasonable charge for providing copies and for the use of city equipment, which charges shall not exceed the amount necessary to reimburse the city for its actual costs incident to such copying. The city clerk may establish a cost schedule for such charges under PMC 3.12.040.C. The city finds that it would be unduly burdensome to calculate the cost of producing standard black and white paper copies of records; scanning paper records into an electronic format; attaching files for electronic delivery; and transmitting data electronically because such calculation would require the city to parse numerous cost factors (including staff time, depreciation value of copying equipment, ink, paper, electricity, and data-storage and transmission services). Though each of these factors imposes a cost on the city, the individual contribution of each copy to the total costs is so small that attempting to calculate the exact cost of each service may lead to error. The city therefore authorizes the city clerk to impose the default costs for these services in RCW 42.56.120(2)(b). For all other costs associated with producing copies of public records, the city clerk shall establish the actual costs of the service. The city may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request. If public records are made available on a partial or installment basis, the applicable fees shall be due and payable for each part of the request as it is provided.

D. No fee shall be charged for the inspection of public records. Copies of records can be reviewed at City Hall.

E. The city shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose of the request, except to establish whether inspection or copying would violate the prohibition on providing a list of individuals for

commercial purposes or any other statute or ordinance which exempts or prohibits disclosure of specific information or records based on the purpose of the request or the intended use of records.

2.98.050 Denials; procedure for review of decision.

A. If the city clerk determines that a 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 city clerk 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.

B. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the city clerk 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. The city clerk shall promptly provide the petition and any other relevant information to the risk manager. The risk manager will immediately 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 as the city and the petitioner mutually agree to. Any person may obtain review of denials of public records requests pursuant to RCW 42.56.550 from the Kitsap County Superior Court at the conclusion of two business days after the initial denial, regardless of any internal administrative appeal.

Section 3. Section 3.12.040 Amended. Section 3.12.040.C of the Poulsbo Municipal Code is hereby amended as follows (strikethroughs indicate deletions, underlining indicates additions):

C. Public Records—Maintenance of Cost Schedule.

1. The city clerk is authorized to establish a cost schedule for copying public records and to revise the schedule by council resolution from time to time in order to reflect increases or decreases in costs of providing such copies.

2. The city may charge any person for copies of any document and for the costs of mailing the document in a manner provided by Chapter 42.56 ~~42.17~~ RCW.

3. NSF Check Charge. The charge for all nonsufficient funds or otherwise unacceptable checks returned to the city shall be as set forth in the fee schedule adopted by Section 3.12.010(A).

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause or phrase of this ordinance.

Section 5. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of the attached summary, which is hereby approved.

ADOPTED by the Poulsbo City Council this 1 day of November, 2017.

APPROVED:

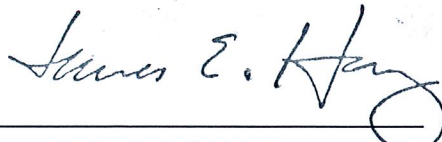

MAYOR REBECCA ERICKSON

ATTEST/AUTHENTICATED:


CITY CLERK RHIANNON FERNANDEZ, CMC

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

BY 
JAMES E. HANEY

FILED WITH THE CITY CLERK: 10/26/2017

PASSED BY THE CITY COUNCIL: 11/01/2017

PUBLISHED: 11/10/2017

EFFECTIVE DATE: 11/15/2017

ORDINANCE NO. 2017-19

SUMMARY OF ORDINANCE NO. 2017-19
of the City of Poulsbo, Washington

On November 1, 2017, the City Council of the City of Poulsbo, Washington, approved Ordinance No. 2017-19, the main point of which may be summarized by its title as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, REGARDING PUBLIC RECORDS; REPEALING CHAPTER 2.98 OF THE POULSBO MUNICIPAL CODE GOVERNING PUBLIC RECORDS AND ENACTING A NEW CHAPTER 2.98 IN ORDER TO REFLECT CURRENT STATE LAW; AMENDING SECTION 3.12.040 OF THE POULSBO MUNICIPAL CODE TO REFLECT RECODIFICATION OF THE PUBLIC RECORDS ACT; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this ordinance will be mailed upon request.

DATED this 1st day of November, 2017.



CITY CLERK, RHIANNON FERNANDEZ, CMC