

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1789

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON, ADDING CHAPTER 2.94 AND SECTIONS 2.94.010, 2.94.020, 2.94.030, 2.94.040, 2.94.050, 2.94.060, 2.94.070, 2.94.080, AND 2.94.090 TO THE FIFE MUNICIPAL CODE TO CODIFY THE CITY'S PUBLIC RECORDS POLICIES AND COMPLY WITH RCW REQUIREMENTS

WHEREAS, the purpose of the Washington State Public Records Act (hereafter "PRA", codified in RCW 42.56, is to allow broad access by the public to records prepared, owned, used, or retained by public agencies; and

WHEREAS, the PRA requires public agencies such as the City of Fife to make nonexempt public records available for inspection and copying in accordance with published rules; and

WHEREAS, it also requires agencies to publish their procedures and index of records, or to formally opt out of the indexing requirement; and

WHEREAS, the City of Fife strives for transparency of governance and an increase in ease of accessibility for the public; now, therefore,

THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Chapter 2.94 of the Fife Municipal Code is hereby added and titled to read as follows:

Chapter 2.94 Public Records

Section 2. A new section 2.94.010 is hereby added to the Fife Municipal Code to read as follows:

2.94.010 Purpose

The purpose of this chapter is to establish the process for obtaining public records from the city of Fife as required by RCW Chapter 42.56 as currently enacted or hereafter amended.

Section 3. A new section 2.94.020 is hereby added to the Fife Municipal Code to read as follows:

2.94.020 Public records officer

(1) The City Clerk or his/her designee, shall be the city's public records officer. The City Manager is authorized to establish and implement policies and procedures for responding to requests for public records in addition to those set forth in this chapter.

(2) Any person requesting public records of the city should contact the public records officer at Fife City Hall.

Public record request information is also available at the city's web site at www.cityoffife.org.

Section 4. A new section 2.94.030 is hereby added to the Fife Municipal Code to read as follows:

2.94.030 Production of public records - generally

(1) Unless exempt from disclosure pursuant to RCW Chapter 42.56, as currently enacted or hereafter amended, or other applicable federal or state law, public records shall be available for inspection and copying. The city may make public records 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 inspection or disclosure. Failure of the city to fully comply with any provision of this chapter shall not result in any liability imposed upon the city other than that outlined in RCW Chapter 42.56.

(2) The city need only disclose records to the extent required by state or federal law and nothing in this policy shall be interpreted as requiring the disclosure of any record that is not subject to disclosure by state or federal law. Generally, any record, or portion thereof, which is exempt from disclosure will not be disclosed, and information contained in the records may be removed to the extent necessary or permissible by law. Any exemptions or redactions made will be noted in an Exemption Log and will be provided to the requestor in conjunction with any responsive documents and/or at the closing of the request, whichever is sooner. The city is not required to create records or documents in response to a request for public records that do not exist at the time the request is made.

Section 5. A new section 2.94.040 is hereby added to the Fife Municipal Code to read as follows:

2.94.040 Requests for public records

(1) In order to track and promptly respond to all requests for public records, requestors are encouraged to make such requests in writing. A form for making such requests is available on the city's website and at City Hall.

(2) Requests made should contain the following information:

- (a) The date of the request;
- (b) The name of the requestor;
- (c) The full address of the requestor;
- (d) The telephone number of the requestor;
- (e) A complete description of the requested record(s);
- (f) The title and date of the requested record, if known;
- (g) Whether the requestor intends to inspect the records or to obtain a copy of the records

(3) Requests for public records shall be submitted to the City Clerk or his/her designee. If the request is to inspect and/or copy a police or incident report, the records manager of the police department is hereby designated to respond to such requests.

Section 6. A new section 2.94.050 is hereby added to the Fife Municipal Code to read as follows:

2.94.050 Initial response to requests

The city shall make an initial response to the request for public records within five business days of receipt of the request. The five business day count does not include the day of the request. In the event a request for public records is received after 5:00 p.m., the request shall be deemed to have been received on the next business day. Depending upon the nature of the request, the city may respond initially by:

- (a) Acknowledging that the records responsive to the request are available for inspection or copying;
- (b) Sending copies to requestor if payment (if necessary) has been received;
- (c) Acknowledging the city's receipt of the request accompanied by an estimate of the time necessary for further response;
- (d) Requesting clarification of the request;
- (e) Denying the request accompanied by an explanation of the basis for the denial

Section 7. A new section 2.94.060 is hereby added to the Fife Municipal Code to read as follows:

2.94.060 Final response to requests

(1) A public disclosure request is not continuing in nature. In the event additional records are created after the date of the requestor's original public records request, the requestor will need to submit a new request. Any records or portions of records disclosed by the city will be provided to the requestor in the same format as they are retained, unless requested otherwise, provided the requestor pays all fees required by this chapter.

(2) If the requestor specifies a format in which the records should be disclosed, the city will disclose the records in the requested format if: (a) it is determined that disclosable records exist; (b) the city is capable of providing the records in the format requested; (c) the format requested is reasonable and does not require additional staff time; and (d) the requestor pays all fees required by this chapter.

(3) For large requests, the City may, at its discretion provide copies in installments and require advance payment before providing further installments.

(4) If requested records contain information that may affect rights of others, before providing the records, the Public Records Officer or designee may give notice and allow time for action by the other parties.

(5) Upon a requestor's inspection of the records, the city's response to the request shall be deemed complete and final. If a requestor has not reviewed or claimed records within thirty days of notice that records are available, or fails to make payment, the request shall be deemed complete and final.

Section 8. A new section 2.94.070 is hereby added to the Fife Municipal Code to read as follows:

2.94.070 Copying fees

(1) Payment of copying fees, whether photocopying or other form of duplication, shall be made pursuant to the current city fee schedule prior to the disclosure of the requested public records. The city, at its discretion, may require the requestor to deposit a sum equal to ten percent (10%) of the estimated cost prior to copying of the records. In the event the city makes a response to a request available on an installment basis, the city may charge for each part of the response as it is provided to the requestor. If an installment response to a records request is not claimed within thirty calendar days, the city is not obligated to fulfill the balance of the request.

(2) At the discretion of the City Manager or his/her designee, reproduction, copying, transcribing or similar services may be outsourced to a private vendor. In all such cases, the requestor shall be responsible for payment of all charges as assessed by the private vendor. Decisions to outsource work shall be based upon operational considerations,

including the desire to ensure that regular City functions and operations are not adversely affected by large requests or a large number of requests in a short time frame.

(3) All payments may be made by cash, Visa or MasterCard credit card, money order or check made payable to the City of Fife.

Section 9. A new section 2.94.080 is hereby added to the Fife Municipal Code to read as follows:

2.94.080 Review of public records request denial

(1) Any person who objects to the initial denial or partial denial of a records request may petition in writing to the public records officer for review of that decision. The petition shall include a copy or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Such a request will be promptly reviewed by the City Attorney, who will consider the petition in light of current State law, and will either affirm or reverse the denial of the public records request.

(3) Should the requestor disagree with the legal interpretation of State law, further appeal must be made through available judicial remedies pursuant to RCW 42.56.550.

Section 10. A new section 2.94.090 is hereby added to the Fife Municipal Code to read as follows:

2.94.090 Opt out of index of records

(1) Findings:

(a) RCW Chapter 42.56.070 requires all cities and public agencies to maintain and make available a current index of various public records.

(b) RCW 42.56.070(4)(a) provides that if maintaining such an index would be unduly burdensome, or would interfere with city operations, 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 or would interfere with operations.

(c) The city of Fife is comprised of numerous departments, and their divisions and subdivisions, which maintain separate databases and/or record keeping 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 and databases, it is unduly burdensome, if not physically impossible, to maintain a central index of records.

(e) The City produces or receives an uncountable number of records each day, and maintains an uncountable number of records in numerous city files.

(f) The development and maintenance of a city index would be extremely costly, and would provide little benefit to the public compared to the expense in maintaining the index.

(g) The City's operations do not allow for the addition, revision, or reassignment of duties of existing personnel so that an index may be developed and maintained.

(h) Anticipated city revenues do not allow for additional staff for the purpose of creating and maintaining such an index.

(i) Pursuant to RCW Chapter 42.56, the city of Fife will disclose all public records, including any indexes that are maintained by the city, to the extent such records or indexes are not exempt from disclosure pursuant to RCW Chapter 42.56 or other applicable laws.

(2) Order Regarding Public Records. Based upon the findings set forth in subsection (1) of this section, and pursuant to RCW 42.56.070(4)(a), the City Council orders the following:

(a) The city of Fife is not required to maintain a current index of public records due to findings of the city council that the requirement is unduly burdensome and would interfere with city operations and such a list is nearly impossible to create and/or maintain; and

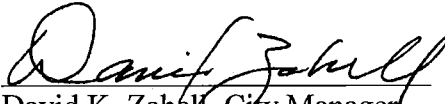
(b) Pursuant to RCW Chapter 42.56, the city of Fife shall disclose all public records and any indexes of public records maintained by the city to the extent not exempt from disclosure pursuant to RCW Chapter 42.56 or other applicable laws.

Section 11. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof, provided the intent of this Ordinance can still be furthered without the invalid provision.

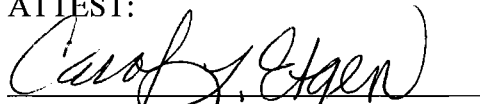
Section 12. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced the 10th day of Oct, 2012.

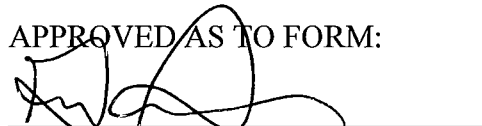
Passed by the City Council on the 23rd day of Oct 2012.


David K. Zabell, City Manager

ATTEST:


Carol Etgen, City Clerk

APPROVED AS TO FORM:


Loren D. Combs, City Attorney
amital city atty

Published: 10/25/12
Effective Date: Oct 30, 2012.

Ad Order Confirmation

Ad Order Number 0001346167
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Customer Account 220218AIM
Customer CITY OF FIFE
ACCOUNTS PAYABLE,5411 23RD ST E,
FIFE WA 98424-2061 USA

Phone Number 253-922-2489
Phone Number 2
Customer Fax

Payment Method
Total Amount \$1,317.39
Payment Amt \$0.00
Amount Due \$1,317.39

Ad Number 0001346167-01
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Tear Sheets 3
Proofs 0
Ad Size 2.0 X 122 Li
Invoice Text: ORD 1789-1812,1815,1816,1819
Affidavits 1
Placement Legal
Position Legals-001

Product	Start Date	Stop Date	# Inserts
The News Tribune	10/25/2012	10/25/2012	1

A COMPLETE COPY OF THE ORDINANCES CAN BE OBTAINED BY CONTACTING THE OFFICE OF THE CITY OF
PFE, CITY CLERK - 253-922-2488
Carol Egan
City Clerk