

CITY OF KENNEWICK
ORDINANCE NO. 5961

AN ORDINANCE RELATING TO REQUESTS FOR ACCESS TO OR COPIES
OF CITY RECORDS AND AMENDING SECTIONS 1.40.010, 1.40.030,
1.40.060, 1.40.090, 1.40.110, 1.40.120, 1.40.160, AND 1.40.170, OF THE
KENNEWICK MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, DO ORDAIN AS
FOLLOWS:

Section 1. Section 1.40.030 of the Kennewick Municipal Code, be, and the same hereby is,
amended to read as follows:

1.40.030: Agency Description—Contact Information—Public Records Officer.

- (1) Any person wishing to request access to public records of the City, or seeking assistance in making such a request, shall contact the City's Public Records Officer.
- (2) The Public Records Officer will oversee compliance with the Act but may designate other City staff members who may process requests for public records. For Police records, the Public Records Officer has designated the Public Records Specialist.
- (3) The Public Records Officer or designee(s) will provide the fullest assistance to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the City.
- (4) When using these Rules, references to the Public Records Officer should be interpreted to also include his/her designees.
- (5) Requests for records other than Police records. Requests to inspect or copy any records maintained by the City, other than Police records, should be made to the Public Records Officer at:

City of Kennewick
Public Records Officer - City Clerk's Office
Public Records Request Center - (as the primary and preferred method)
210 West 6th Avenue
P.O. Box 6108
Kennewick, WA 99336
Telephone: (509) 585-4578
Fax: (509) 585-4445
Email: PRRequest@ci.kennewick.wa.us

- (6) Requests for Police Records. Requests to inspect or copy records maintained by the City's Police Department shall be made to the Public Records Specialist at:

Kennewick Police Department
Records Specialist – City Clerk’s Office
Public Records Request Center - (as the primary and preferred method)
211 West 6th Avenue
P.O. Box 6108
Kennewick, WA 99336
Telephone: (509) 585-4507
Fax: (509) 582-9528
Email: PolicePDR@ci.kennewick.wa.us

- (7) Internet access to records. Many records are also available on the City of Kennewick website. Requestors are encouraged to preserve taxpayer resources by viewing documents available on the website prior to submitting a public records request. In accordance with RCW 42.56.520(2) the City may satisfy its obligation by providing an internet address and link on the agency's web site to the specific records requested.
- (8) A computer kiosk is located in the lobby of City Hall and provides customers with direct access to the Public Records Request Center. City staff members are available to assist customers with this service.
- (9) The "City" does not include the Kennewick Public Facilities District, the Kennewick Housing Authority, or any other independent body. Requests of those agencies will not be coordinated via the City of Kennewick's Public Records Officer and shall be made directly to those agencies by the requestor.

(Ord. 5961 Sec. 1, 2021, Ord. 5805 Sec. 1, 2019; Ord. 5708 Sec. 1 (part), 2017)

Section 2. Section 1.40.060 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

1.40.060: Procedures for Exemptions and Redactions.

- (1) The City reserves the right to redact identifying details when disclosing the public record if there is reason to believe that disclosure of such details would be an invasion of personal privacy or involves exempt material as noted above in 1.40.040. When exempt portions of Public Records can be redacted, the remainder thereof shall be open to public inspection and copying.
- (2) Exemption Log. If the City determines that a record is subject to an exemption and is withholding the record in its entirety, the City shall prepare an exemption log that contains the following information:
 - (a) A description of the exemption including the statutory reference;
 - (b) The type of record being withheld;
 - (c) A short explanation of how the exemption applies to the record (or part) being withheld;

- (d) The date the record was created;
 - (e) The number of pages;
 - (f) The author and recipient, or if otherwise protected, other means of sufficiently identifying particular records without disclosing protected contents; and
 - (g) Where the use of any identifying features would reveal protected contents, the City may designate the record with a numbered sequence.
- (3) Notice of Redaction/Redaction Log. If the City determines that part of a record is subject to an exemption, the City shall redact the exempt portion(s), provide the non-exempt portions and note the redaction(s) in correspondence to the requestor or by creating a Redaction Log for numerous exemptions. The following information shall be included in writing:
- (a) A color-coded text overlay on pdf documents where the exemption occurs;
 - (b) A description of the exemption including the statutory reference; and
 - (c) A short explanation of how the exemption applies to the record (or part) being withheld.
- (4) Exemption and Redaction Logs for non-routine requests are to be reviewed by the City Attorney's Office prior to being provided to the requestor.

(Ord. 5961 Sec. 2, 2021, Ord. 5708 Sec. 1 (part), 2017)

Section 3. Section 1.40.090 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

1.40.090: Costs of Providing Copies of Public Records.

- (1) There is no fee for inspecting public records.
- (2) The City does not charge a fee for locating records.
- (3) There is a cost to receive copies of records as described in the City's fee schedule which is adopted by Council resolution.
 - (a) The fee schedule is available at City Hall, the Kennewick Police Department and on the City's website.
 - (b) When the cost is nominal (under \$1.00), the City may waive the fee if it determines it is more efficient to do so. However, persons who make multiple records requests may be required to pay nominal fees when it's estimated the total of their collective requests may exceed \$1.00.
 - (c) The decision to waive nominal fees shall not be based solely upon the identity of the requestor nor for the purpose (or presumed purpose) of the request.

- (4) For security reasons and to avoid unreasonable disruption of operations, the City cannot offer copying facilities for public use or open files beyond business hours.
- (5) Before beginning to make copies, the Public Records Officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The Public Records Officer, or designee, may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing the installment. The City will not charge sales tax when it makes copies of public records.
- (6) Cost of Mailing. The City may also charge the actual costs of mailing, including the cost of the shipping container and the actual staff time spent preparing the records for mailing.
- (7) Fees are normally waived for government agencies or when supplying the copy would be in the City's interest.
- (8) Customized Access is a matter of law as noted in RCW 42.56.120. The City may assess a customized service charge for exceptionally large records requests that require staff and resources beyond what is normally available to the agency. The fee is in addition to the authorized copying costs, and may include reimbursement for the actual costs of providing the records. A customized service charge is warranted if:
 - (a) Fulfilling the request requires extensive use of information technology resources to identify, locate, format, or translate a record, or provide electronic access services; or
 - (b) The request requires specialized analytical, research, or supervisory assistance to identify, locate, compile, or transfer the records.
- (9) This policy does not apply to records sought under the rules of discovery in the course of litigation. If a requestor is seeking records under discovery, they need to make their request to the City Attorney's Office and not through this policy. All records requests made under this policy, regardless of intended use are subject to RCW 42.56 (including the exemptions allowed under the Act).
- (10) GIS Information is available pursuant to KMC 1.40.100.
- (11) Requests for Replacement Jobsite Plans:
 - (a) The City maintains (for a period of 90 days following project completion) a set of submitted plans in their original format. The City does not retain a stamped set of plans. Therefore, customers are responsible for protecting their stamped originals from loss, damage and destruction and for maintaining a copy of the stamped plans at the jobsite at all times.
 - (b) To obtain a replacement set of stamped jobsite plans, please submit your request and payment to the customer service permit desk (subject to current fee schedule) and not through this policy.

(Ord. 5961 Sec. 3, 2021, Ord. 5708 Sec. 1 (part), 2017)

Section 4. Section 1.40.110 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

1.40.110: Prompt Responses Required.

- (1) Within five business days of receiving a valid/proper public records request, the Public Records Officer must respond to the requestor in (one or more of) the following ways:
 - (a) Providing the record;
 - (b) Providing an internet address and link on the City's website to the specific records requested, except that if the requester notifies the City that he or she cannot access the records through the internet, then the City will provide copies of the record;
 - (c) Acknowledging that the City has received the request and providing a reasonable estimate of the time required to respond to the request;
 - (d) Requesting clarification from the requestor; or
 - (e) Denying the public records request.
- (2) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, collaborate with the requestor to ensure a successful search, 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 and that a denial should be made as to all or part of the request and to prepare redaction logs as appropriate.
- (3) As a courtesy, rather than denying an invalid request outright, the Public Records Officer may provide the requestor an opportunity to rephrase a request that does not sufficiently describe an identifying document. Such opportunity will include a deadline for response. This courtesy is extended based upon availability of staff time and resources. The request will be considered "received" on the next business day after the "existing, identifiable" records have been described. If the requestor fails to properly identify existing records by the deadline the City need not respond to it.
- (4) Denials of requests must be accompanied by a written statement of the specific reasons therefor in accordance with RCW 42.56.
- (5) Should a requestor not receive a timely response to their request as described above, the requestor should contact the public records officer to determine the reason for the failure to respond.

The City is committed to assisting the public with accessing the records and encourages requestors to avoid delays in contacting the Public Records Officer/Specialist.

(Ord. 5961 Sec. 4, 2021, Ord. 5708 Sec. 1 (part), 2017)

Section 5. Section 1.40.120 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

1.40.120: Administrative Review of Actions by the Public Records Officer.

- (1) Any person who objects to the denial of a request for a public record or the closure of a public records request shall petition for prompt review of such action by tendering a written request for review to the City Attorney. The written request shall specifically refer to the written statement by the Public Records Officer or other staff member which constituted or accompanied the action taken.
- (2) Immediately after receiving a written request for review of a decision of the Public Records Officer, the City Attorney (or designee) shall request a response from the Public Records Officer or other person who responded to the request. The City Attorney (or designee) will immediately consider the matter and either affirm or reverse such action within two business days following the receipt of the written request for review of the action.
- (3) Administrative remedies shall not be considered exhausted until the City Attorney (or designee) has made a written decision, or until the close of the second business day following receipt of the written request for review of the action of the Public Records Officer, whichever occurs first.

(Ord. 5961 Sec. 5, 2021, Ord. 5708 Sec. 1 (part), 2017)

Section 6. Section 1.40.160 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

1.40.160: Providing Records in Installments.

It is the City's goal to provide requestors with the records they seek as quickly as possible. Therefore, the Public Records Officer or designee, 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.

- (1) If, within 30 days, the requestor fails to inspect (or provide payment for) the entire set of records or one or more of the installments, the Public Records Officer or designee may stop searching for the remaining records and close the request.
- (2) The City may suspend work to satisfy the request while awaiting payment or inspection of the records.

(Ord. 5961 Sec. 6, 2021, Ord. 5708 Sec. 1 (part), 2017)

Section 7. Section 1.40.170 of the Kennewick Municipal Code, be, and the same hereby is, amended to read as follows:

1.40.170: Closing the Request.

- (1) The Public Records Officer shall provide requestors 30 days to respond to requests from the City to retrieve/review documents and/or provide payment (reproduction expenses or deposits). This notice shall be made in writing and shall include the deadline to respond. The notice shall also provide language alerting the requestor that their request will be automatically closed at the end of the deadline if they do not adequately respond. Should the 30 days lapse without the appropriate action of the requestor, the request will be listed as abandoned and closed. No further work will take place on the request.
 - (a) Postmarks for payments are not accepted. Requestors shall plan ahead for deadlines which fall on weekends or holiday closures.
 - (b) The City shall release records to the requestor no more than four business days following receipt of payment.(2) The City of Kennewick is not required to retain records longer than the minimum length of time prescribed by law. In order to not artificially extend the retention period of records and/or cause disorganization of the City's records, copies of records compiled for abandoned requests will not be retained. Therefore, records compiled for abandoned requests may not be available for later submittals.
- (3) Requestors are urged to take timely action to prevent their requests from lapsing into an abandoned status.

(Ord. 5961 Sec. 7, 2021, Ord. 5708 Sec. 1 (part), 2017)

Section 8. This ordinance shall be in full force and effect five days from and after its passage, approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this 21st day of December 2021, and signed in authentication of its passage this 21st day of December, 2021.

DON BRITAIN, Mayor

Attest:

TERRI L. WRIGHT, City Clerk

ORDINANCE NO. 5961 filed and recorded
in the office of the City Clerk of the City of
Kennewick, Washington this 22nd day of
December, 2021.

LISA BEATON, City Attorney

TERRI L. WRIGHT, City Clerk

DATE OF PUBLICATION_____