

ORDINANCE NO. 478

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE RELATING TO THE PUBLIC RECORDS DISCLOSURE ACT AND THE ADMINISTRATION OF PUBLIC RECORDS REQUESTS; REPEALING CHAPTER 2.30 PUBLIC RECORDS AND ADOPTING A NEW CHAPTER 2.30 PUBLIC RECORDS OF THE UNIVERSITY PLACE MUNICIPAL CODE ; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council desires to adopt rules and regulations to carry out and implement the Public Records Disclosure Act, Chapter 42.56 RCW; and

WHEREAS, the City Council has determined that the City is not required to maintain a current index of public records because to do so would be unduly burdensome and such an index would be nearly impossible for the City to create and/or maintain;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Repealing Chapter 2.30, Public Records, of the University Place Municipal Code. Chapter 2.30, Public Records, of the University Place Municipal Code is hereby repealed.

Section 2. Adopting a New Chapter 2.30, Public Records, to the University Place Municipal Code. The University Place Municipal Code is hereby amended by adding a new Chapter 2.30, Public Records, as follows:

Chapter 2.30 Public Records

Sections:

- 2.30.010 Relationship to the Public Records Disclosure Act
- 2.30.020 Disclosure of Public Records
- 2.30.130 Authority and Purpose
- 2.30.040 Public Records Officer
- 2.30.050 Making a Request for Public Records
- 2.30.060 Index of Public Records – Findings
- 2.30.070 Order Regarding Public Records Index
- 2.30.080 Processing of Public Records Requests
- 2.30.090 Inspection of Records
- 2.30.100 Exemptions
- 2.30.110 Reimbursement for Copying Costs
- 2.30.120 Review of Denials of Public Records
- 2.30.130 Administrative Rules
- 2.30.140 Copyright Enforcement
- 2.30.150 Misuse of Public Records - Penalty

2.30.010. Relationship to the Public Records Disclosure Act. This Ordinance constitutes the City's rules and regulations to carry out and implement the Public Records Disclosure Act ("Act"), Chapter 42.56 RCW. Except as provided in this Ordinance, Chapter 42.56 RCW shall apply to all City public records.

2.30.020. Disclosure of Public Records. Unless exempt from disclosure under the Act or this Ordinance, public records shall be available for inspection and copying in accordance with this Ordinance.

2.30.030. Authority and Purpose.

A. The Act requires each city to make available for inspection and copying nonexempt "public records" in accordance with published rules. The Act defines "public records" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the City.

B. The purpose of these rules is to establish the procedures the City shall follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the City and establish processes for both requestors and City staff that are designed to best assist members of the public in obtaining such access.

C. The purpose of the Act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The Act and these rules shall be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the City shall be guided by the provisions of the Act describing its purposes and interpretation.

2.30.040. Public Records Officer.

A. The City Council for the City of University Place hereby appoints the City Clerk as the official public records officer pursuant to RCW 42.56.580. Any person wishing to request access to public records of the City, or seeking assistance in making such a request shall contact the public records officer of the City:

Public Records Officer (City Clerk)
City of University Place
University Place City Hall
3715 Bridgeport Way West, Suite B-1, University Place, WA 98466
Telephone: 253/566-5656
Fax: 253/566-5658

Information is also available at the City's website at www.cityofup.com

B. The public records officer is not required to personally fulfill the requests for public records. A request may be fulfilled by a City employee other than the public records officer. If the request is made to the public records officer but fulfilled by others in the City, the public records officer shall be responsible for directing the request to the appropriate person or persons in the City for processing.

C. The public records officer or designee shall 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.

2.30.050. Making a Request for Public Records.

A. Any person wishing to inspect or copy public records of the City shall make the request in writing on the City's request form, or by letter, fax, or e-mail addressed to the public records officer, and include the following information:

Name of requestor;

1. Address of requestor;
2. Other contact information, including telephone number and any e-mail address;
3. Identification of the public records adequate for the public records officer or designee to locate the records;

4. The date and time of day of the request; and
5. A statement that the request is not for a commercial purpose.

B. If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she shall so indicate and make arrangements to pay for copies of the records or a deposit.

C. A form is available for use by requestors at the City Clerk's office and on-line at www.cityofup.com.

D. The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

2.30.060. Index of Public Records – Findings.

A. Chapter 42.56 RCW 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 if maintaining such an index would be unduly burdensome, or would interfere with agency operation, 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.

C. The City of University Place is comprised of two departments, 14 divisions and subdivisions, which maintain separate databases and/or recordkeeping 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 central index of records.

E. The City will make available for inspection and/or copying all public records, including any indexes that are maintained by the City pursuant to the Act, Chapter 42.56 RCW, and this Ordinance.

2.30.070. Order Regarding Public Records Index. Based upon the findings set forth in Section 6 of this Ordinance, and pursuant to RCW 42.56.070(4)(a), the City Council orders the following:

A. The City is not required to maintain a current index of public records due to findings of the City Council that the requirements are unduly burdensome and such a list is nearly impossible to create and/or maintain; and

B. Pursuant to Chapter 42.56 RCW and this Ordinance, the City shall make available for public inspection and/or copying all public records and any indexes of public records maintained by the City to the extent not exempt from inspection and/or copying pursuant to RCW 42.56 or other applicable law.

2.30.080. Processing of Public Records Requests.

A. Providing "fullest assistance." The City shall adopt rules to "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public

records officer or designee shall process requests in the order allowing the most requests to be processed in the most efficient manner.

B. Acknowledging receipt of request. Upon receiving a completed written request for public records form, the public records officer shall determine whether the requested record is exempt by law from inspection and copying in whole or in part. The public records officer shall make an initial response to the request for public records within five (5) business days of receipt 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 on the nature of the request, the public records officer shall do one or more of the following:

1. Make the records available for inspection or copying;
2. If copies are requested and payment of a deposit, for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
3. Provide a reasonable estimate of when records will be available;
4. If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or
5. Deny the request.

C. Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons shall include a copy of the request.

D. Records exempt from disclosure.

1. Some records are exempt from disclosure, in whole or in part under RCW 42.56 or other State laws. If the City believes that a record is exempt from disclosure and should be withheld, the public records officer shall state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer shall redact the exempt portions, provide the non-exempt portions, and indicate to the requestor why portions of the record are being redacted.
2. A decision by the public records officer denying inspection shall be reviewed by the City Attorney. Such review shall be deemed complete at the end of the second business day following the denial of inspection and shall constitute final City action for the purposes of judicial review. The requestor shall be notified by mail of the decision to grant or deny the request.

E. No duty to create records. The City is not obligated to create a new record to satisfy a records request.

F. Organization of records. The City shall maintain its records in a reasonably organized manner. The City shall take reasonable actions to protect records from damage and disorganization. A variety of records are available on the City's website at www.cityofup.com. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

G. Similar treatment and purpose of the request. The City shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request, except to determine if the request is for commercial use or would violate another statute prohibiting disclosure.

2.30.090. Inspection of Records.

A. Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the City, Monday through Friday, by appointment, excluding legal holidays. Records must be inspected at University Place City Hall.

B. Facilities for inspection of records. The City shall provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the City to copy.

C. Thirty-day period for inspection of records. The requestor shall claim or review the assembled records within thirty days of the City's notification to him or her that the records are available for inspection or copying. The City shall notify the requestor in writing of this requirement and inform the requestor that he or she shall contact the City to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the City may close the request and re-file the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

D. Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

E. Providing records in installments. When the request is for a broad range of records, the public records officer or designee may 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. If, within thirty days, the requestor fails to inspect 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.

F. Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee shall indicate that the City has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

G. Closing withdrawn or abandoned request. When the requestor withdraws the request, fails to fulfill his or her obligations to inspect the records, or fails to pay the deposit or final payment for the requested copies, the public records officer shall close the request and indicate to the requestor that the City has closed the request.

H. Later discovered documents. If, after the City has informed the requestor that it has provided all available records, the City becomes aware of additional responsive documents existing at the time of the request, the City shall promptly inform the requestor of the additional documents and provide them on an expedited basis.

2.30.100. Exemptions.

A. The Act provides that a number of documents are exempt from public inspection and copying. In addition, documents are exempt from public disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of exemptions, outside the Act, that restrict the availability of some documents held by the City for inspection and copying.

B. The City Clerk's office shall maintain and make available a list of other statutory exemptions. This list may also be viewed on the City's website at www.cityofup.com. This list is

for informational purposes only and the City's failure to list an exemption shall not affect the efficacy of any exemption.

C. The City is prohibited by statute from disclosing lists of individuals for commercial purposes.

2.30.110. Reimbursement for Copying Costs.

A. Copies of written records, maps, photographs including slides, audio tape recordings, video tape recordings and diskettes shall be made and provided by the City upon request and payment of the actual cost of reproducing the same, which cost shall be established by City Council resolution.

B. Labor and mailing costs shall be included in the cost of reproduction. The costs of reproduction provided for by resolution shall include, but not be limited to, the following records: street maps, zoning maps, zoning codes, ordinances, public meeting minutes, resolutions, verbatim transcripts, deeds, contracts, and other records.

C. Where the request is for a certified copy, there shall be an additional charge in the amount established by City Council resolution to cover the additional expense and time required for certification.

D. The public records officer may provide copies of City records at no charge to individuals or government agencies doing business with the City, if the public records officer determines such action is in the best interests of the City.

2.30.120. Review of Denials of Public Records.

A. Petition for internal administrative review of denial of access. 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 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.

B. Consideration of petition for review. The public records officer shall promptly provide the petition and any other relevant information to the public records officer's supervisor or other City official designated by the City to conduct the review. That person 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 requestor mutually agree to

C. Judicial review. Any person may obtain court review of denials of public records request pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

2.30.130. Administrative Rules. The City Manager, upon recommendation of the public records officer, may issue rules for the implementation of this Ordinance.

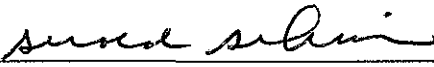
2.30.140. Copyright Enforcement. The City recognizes that any software and special applications for software developed by City officers and employees in the scope of their employment are owned by the City pursuant to the copyright laws, 17 U.S.C., Sections 101 and 201. The City shall make available to all requestors a license to use such software so as to make use of all public data.

2.30.150. Misuse of Public Records - Penalty. Every person who shall unlawfully remove, alter, mutilate, destroy, disorganize, conceal, erase, obliterate, or falsify any public record shall be guilty of a misdemeanor.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall be effective five (5) days after its publication.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 5, 2006.



Gerald Gehring, Mayor

ATTEST:



Sarah Ortiz, CMC, City Clerk

APPROVED AS TO FORM:



Janean Parker, City Attorney

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