

ORDINANCE O-4887

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING CHAPTER 3.15 OF THE KIRKLAND MUNICIPAL CODE (KMC) REGARDING ACCESS TO PUBLIC RECORDS AND KMC 3.16.035 REGARDING THE DEPARTMENT OF FINANCE AND ADMINISTRATION.

1           WHEREAS, the City Council ("Council") adopted Ordinance No.  
2 0-4414 on July 16, 2023, establishing Kirkland Municipal Code ("KMC")  
3 Chapter 3.15, Access to Public Records, which was subsequently  
4 amended through Ordinance No. O-4692 on July 19, 2019; and  
5

6           WHEREAS, the Council adopted Ordinance No. O-4416 on  
7 September 3, 2019, updating references to the Department of Finance  
8 and Administration and making updates to KMC Section 3.16.035; and  
9

10           WHEREAS, as it has been several years since the Public  
11 Records Act Rules and the public records related provisions of the KMC  
12 have been reviewed and revised, the Public Disclosure Steering Team,  
13 as defined therein, recommends these updates in order to stay  
14 compliant with current law and best practices; and  
15

16           WHEREAS, the Council received a presentation in a public  
17 meeting by the Department of Finance and Administration on  
18 September 17, 2024, regarding the revision and update of the public  
19 records related provisions of the KMC and their associated Public  
20 Record Act Rules ("Rules"); and  
21

22           WHEREAS, associated changes to the Rules will be considered  
23 separately by the Council by way of Resolution; and  
24

25           WHEREAS, the Council recognizes that these KMC updates are  
26 consistent with the policy of the City of Kirkland ("City") that all persons  
27 are entitled to the greatest possible information regarding the affairs of  
28 City government and the official acts of those officers and employees  
29 who serve them.  
30

31           NOW, THEREFORE, the City Council of the City of Kirkland do  
32 ordain as follows:  
33

34           Section 1. Chapter 3.15 of the Kirkland Municipal Code, Access  
35 to Public Records, is amended to read as follows:  
36

37 Chapter 3.15  
38 ACCESS TO PUBLIC RECORDS  
39 Sections:  
40

41 3.15.010 Findings.  
42

43 3.15.020 Procedural information.  
44

45 3.15.030 Public records management and disclosure steering team.

- 46 3.15.040 Public records management and disclosure coordinating  
 47 team.  
 48
- 49 3.15.050 Categories of requests.  
 50
- 51 3.15.060 Standard time periods for response.  
 52
- 53 ~~3.15.070 Records requests log.~~  
 54
- 55 ~~3.15.080 Records requests queues.~~  
 56
- 57 ~~3.15.090 Communications with requestors.~~  
 58
- 59 ~~3.15.100 City website.~~  
 60
- 61 3.15.110-070 City employee responsibilities.  
 62
- 63 3.15.120-080 Public records performance report.  
 64
- 65 ~~3.15.130 Resources devoted to public records disclosure.~~  
 66
- 67 3.15.010 Findings.  
 68 (a) Local government agency duties and responsibilities for the proper  
 69 management and disclosure of public records are defined in chapter  
 70 42.56 RCW, the Public Records Act, ("act") and chapter 40.14 RCW,  
 71 Preservation and Destruction of Public Records ("preservation statute").  
 72
- 73 (b) Managing public records and rResponding to public records  
 74 disclosure requests is one are two of the city's unique and core essential  
 75 functions and is and also a the responsibility of every city employee as  
 76 provided for herein.  
 77
- 78 (bc) Similar to the city's other essential functions, the staffing, and  
 79 resources that the city can devote to managing public records and  
 80 responding to public records disclosure requests is are necessarily  
 81 limited.  
 82
- 83 (ed) In order to avoid excessive interference with other essential  
 84 functions of the city, the city needs to establishes, and periodically  
 85 reviews, the appropriate level of effort and resources to be devoted to  
 86 responding to managing public records and responding to disclosure  
 87 requests and the level of resources to be allocated.  
 88
- 89 (de) The level of effort and resources allocated to managing public  
 90 records and responding to disclosure requests must be reasonable and  
 91 needs to be is established during the biennial budget process when the  
 92 city council evaluates the available resources to perform all of the city's  
 93 city essential functions and establishes levels of service. In this manner,  
 94 the council establishes the level of effort and resources to be devoted to  
 95 managing public records and responding to disclosure requests.  
 96

97 ~~(e) As part of its audit report, the Washington State Auditor's Office~~  
 98 ~~provides a benchmark in terms of the audit cost as a percentage of the~~  
 99 ~~jurisdiction's total expenses.~~

100  
 101 ~~(f) The Washington State Auditor's Office cost analysis for the city's~~  
 102 ~~2011 financial audit determined that the audit cost as a percentage of~~  
 103 ~~the city's total expenses was 0.049 percent.~~

104  
 105 ~~(g) The city's current level of effort in responding to public records~~  
 106 ~~requests was adopted as part of the 2013-2014 budget and represents~~  
 107 ~~nearly five times the amount spent on audits.~~

108  
 109 ~~(h) Starting with the 2015-2016 biennial budget process, the city council~~  
 110 ~~will establish the level of effort to be devoted to responding to records~~  
 111 ~~requests and the amount of resource to be allocated.~~

112  
 113 ~~(i) Using the audit cost analysis by the Washington State Auditor's~~  
 114 ~~Office for the audit of the city and the city's current level of public records~~  
 115 ~~response effort as the baseline resource allocation rationale, the city~~  
 116 ~~council will determine the future levels of effort to be devoted to~~  
 117 ~~responding to public records requests and the level of resources to be~~  
 118 ~~allocated during the biennial budget process.~~

119  
 120 ~~(jf) An semi-annual report on the management of public records~~  
 121 ~~requests and the status of disclosure requests will be provided by city~~  
 122 ~~staff made to the city council and the public.~~

123  
 124 ~~(kg) The city clerk has been designated as the public records officer~~  
 125 ~~for the entire city, as required by RCW 42.56.580, the city shall appoint~~  
 126 ~~and publicly identify a public records officer, whose responsibility is to~~  
 127 ~~serve as a point of contact for members of the public in requesting~~  
 128 ~~disclosure of public records and to oversee the city's compliance with~~  
 129 ~~the public records management and disclosure requirements, and is~~  
 130 ~~responsible for overseeing the city's compliance with the public records~~  
 131 ~~disclosure requirements.~~

132  
 133 ~~(h) The city shall, through its public records officer, maintain an~~  
 134 ~~electronic log of all records requests received by the city.~~

135  
 136 ~~(i) In consultation with the public records management and disclosure~~  
 137 ~~steering team, the public records officer shall establish policies for~~  
 138 ~~information to be included in the logs and the way in which the logs are~~  
 139 ~~made available to the public~~

140  
 141 3.15.020 Procedural information.

142  
 143 ~~As required by the Public Records Act, Chapter 42.56.040 RCW, the~~  
 144 ~~city has separately established Public Records Act Rules ("Rules")~~  
 145 ~~governing the process for requesting public records and responding to~~  
 146 ~~requests for public records. As required by RCW 42.56.040, the city~~  
 147 ~~shall prominently display and make available for inspection and copying~~

148 ~~such rules. These Rules are posted on the city's website at~~  
 149 ~~kirklandwa.gov and available in hard copy upon request. Consistent with~~  
 150 ~~the findings of this chapter, the public disclosure steering team, as~~  
 151 ~~established in Section 3.15.030, shall promulgate rules to implement~~  
 152 ~~this chapter. In addition, the city may establish records management~~  
 153 ~~policies, in accordance with the preservation statute.~~

154  
 155 3.15.030 Public records management and disclosure steering team.  
 156

157 (a) There is established a public records management and disclosure  
 158 steering team ("steering team") composed of the city manager ~~or his or~~  
 159 ~~her designee~~, the director of finance and administration, the public  
 160 records officer, city clerk and the city attorney, or their designees. The  
 161 ~~public disclosure steering team shall provide guidance to the public~~  
 162 ~~records management and disclosure coordinating team, as needed.~~

163  
 164 (b) The ~~public disclosure steering team~~ is the body designated by the  
 165 city to conduct reviews when any person objects in writing ~~(including~~  
 166 ~~email)~~ to the initial denial or partial denial of their records request.

167  
 168 ~~(c) The public disclosure steering team may also manage the records~~  
 169 ~~request queues if necessary based on criteria set forth in the Rules or~~  
 170 ~~extraordinary circumstances.~~

171  
 172 ~~(d) The public disclosure steering team will develop the rules, review~~  
 173 ~~the city manager's all proposed amendments to the Public Record Act~~  
 174 ~~Rules, and any records management policies.~~

175  
 176 ~~(e) The public disclosure steering team, in addition to other duties,~~  
 177 ~~may recommend changes to this chapter or the rules to the city council.~~

178  
 179 ~~(f) The public disclosure steering team may add members, as~~  
 180 ~~needed.~~

181  
 182 3.15.040 Public records management and disclosure coordinating  
 183 team.  
 184

185 (a) There is established a public records management and disclosure  
 186 coordinating team ("coordinating team"). The public records officer, or  
 187 designees. ~~The city clerk and deputy city clerk are designated as the~~  
 188 ~~lead staff for the coordinating team.~~

189  
 190 (b) Each city department shall designate a staff member or members  
 191 to facilitate the management and disclosure of public records in  
 192 coordination with the public records officer. The designated staff  
 193 members will serve on the ~~public disclosure coordinating team~~ and  
 194 ~~assist support the public records officer city clerk and deputy city clerk~~  
 195 ~~in implementing this chapter.~~

196  
 197 ~~(c) The public disclosure eCoordinating team shall be responsibilities~~  
 198 ~~shall be le for managing the records request queues based on criteria~~

199 set forth in the Public Records Act Rules and related records  
200 management policies.

201  
202 3.15.050 Categories of requests.  
203

204 aWhen a public records disclosure request is received, the department  
205 representative-coordinating team representative receiving the request  
206 will categorize the request according to the nature, volume, and  
207 availability of the requested records as set forth in the Rrules.~~The~~  
208 ~~categories of public records requests will be established based on~~  
209 ~~criteria such as:~~

210  
211 ~~(1) The immediacy of the required response in the interest of public~~  
212 ~~safety (imminent danger).~~

213  
214 ~~(2) The complexity of the records request in terms of the breadth, ease~~  
215 ~~of identification, and accessibility.~~

216  
217 ~~(3) The amount of coordination required between departments.~~

218  
219 ~~(4) The number of records requested.~~

220  
221 ~~(5) The extent of research required by city staff that is not primarily~~  
222 ~~responsible for public disclosure.~~

223  
224 ~~(6) The need for legal review and/or additional assistance from third~~  
225 ~~parties in identification and assembly.~~

226  
227 ~~(7) Other criteria the public disclosure steering team deems~~  
228 ~~appropriate.~~

229  
230 ~~(b) The city shall ensure that all categories of records requests receive~~  
231 ~~an allocation of resources for response throughout the year.~~

232  
233 3.15.060 Standard time periods for response.  
234

235 The city ~~must~~ shall make public records available promptly when  
236 requested under the Public Records Act. If records cannot be made  
237 available within five business days, ~~the Act requires a written response~~  
238 from the city will be provided to the requestor within that time period. In  
239 such instances, ~~T~~the city ~~may~~ will acknowledge receipt of the public  
240 disclosure request and provide a reasonable estimate of the time  
241 necessary to make the records available. The Rrules shall establish  
242 goals for standard response periods for all categories of records  
243 requests.

244  
245 ~~3.15.070 Records requests log.~~

246 ~~(a) Each department shall maintain an electronic log of all records~~  
247 ~~requests received by that department and shall provide access to the~~  
248 ~~log to the city clerk who shall maintain a citywide records requests log.~~

249

250 ~~(b) In consultation with the public disclosure steering team, the city~~  
251 ~~clerk shall establish policies for what information shall be included in the~~  
252 ~~logs and how the logs shall be made publicly available.~~

253  
254 ~~(c) The city recognizes that, in limited circumstances, processing a~~  
255 ~~request for records may result in more expense to the city than merely~~  
256 ~~copying and providing the records to the requestor. Each city~~  
257 ~~department may designate, within its own department, certain routine~~  
258 ~~records available to the public for immediate inspection without the~~  
259 ~~requirement of a formal records request. However, each of the records~~  
260 ~~requests must be maintained in an electronic log.~~

261  
262 ~~3.15.080 Records requests queues.~~

263 ~~(a) Records requests shall be maintained and tracked in records~~  
264 ~~requests queues, as set forth in the Rules. The queues shall identify the~~  
265 ~~status of the records requests as "pending," "active," or "completed."~~

266  
267 ~~(b) Records requests will initially be entered in the respective queues~~  
268 ~~in the chronological order in which they are received by the city.~~  
269 ~~Responding to a records request is not always a sequential process.~~  
270 ~~The clerk will manage the active queues by moving between requests~~  
271 ~~in accordance with the Rules.~~

272  
273 ~~(c) Records requests will be subsequently managed in the queue~~  
274 ~~based on the criteria set forth in the Rules.~~

275  
276 ~~3.15.090 Communications with requestors.~~

277  
278 ~~(a) The city will use its best efforts to provide requestors with accurate~~  
279 ~~and reasonable estimates of how long it will take to provide records~~  
280 ~~responsive to a request.~~

281  
282 ~~(b) If the city learns additional time is needed to respond to the records~~  
283 ~~request, the city will promptly communicate the need for additional time~~  
284 ~~to the requestor, inform the requestor of the reason additional time is~~  
285 ~~required and provide an estimated new time frame for records delivery.~~

286  
287 ~~3.15.100 City website.~~

288  
289 ~~(a) The city posts commonly requested records on its website.~~

290  
291 ~~(b) The city's response to a records request may be to provide the~~  
292 ~~requestor a link to records posted on its website, unless the requestor~~  
293 ~~notifies the city that he or she cannot access the records through the~~  
294 ~~Internet.~~

295  
296 ~~(c) By November 2013, the city will maintain a separate page on its~~  
297 ~~website that shall include the queues and records requests logs. The~~  
298 ~~city clerk shall ensure that the website is updated to provide current~~  
299 ~~information, including the date the records request was made, its order~~  
300 ~~in the queue, and the estimated time of responding to the request.~~

301 ~~(d) The city website will also provide guidance and information to the~~  
 302 ~~public for making records requests on its website.~~

303  
 304 ~~(e) The city website will allow requestors the option of using online~~  
 305 ~~request forms for requesting records and submitting those requests~~  
 306 ~~electronically.~~

307  
 308 3.15.070440 City employee responsibilities.

309  
 310 ~~(a) As provided for herein, all city employees are responsible have~~  
 311 ~~responsibilities for managing public records, assisting in identifying~~  
 312 ~~responsive records for disclosure requests, and facilitating a thorough~~  
 313 ~~collection of records.~~

314  
 315 ~~(b) The city will provide training to city employees on their obligations~~  
 316 ~~under the Public Records Act, and preservation statute, including the~~  
 317 ~~responsibility of all employees to retain records according to the relevant~~  
 318 ~~retention schedules.~~

319  
 320 ~~(c) For most city employees, producing records in response to records~~  
 321 ~~disclosure requests is a responsibility assigned in addition to their~~  
 322 ~~primary assigned duties and functions.~~

323  
 324 ~~(d) For those city employees for whom responding to records~~  
 325 ~~disclosure requests is not among their primary assigned duties, the~~  
 326 ~~need to devote more than ten hours in a month to records production~~  
 327 ~~may result in a reasonable delay of the response to a records disclosure~~  
 328 ~~request.~~

329  
 330 3.15.080420 Public records performance report.

331  
 332 ~~No later than August 31st and the last day of February of each year, the~~  
 333 ~~public records officer, or designee, city clerk will submit to the city~~  
 334 ~~council a report on the city's performance in managing public records~~  
 335 ~~and responding to public records disclosure requests during the prior~~  
 336 ~~year (i.e. July 1<sup>st</sup> through June 30<sup>th</sup>) preceding six months. The report~~  
 337 ~~shall include any baseline state defined criteria for reporting, and items~~  
 338 ~~of interest, as determined by the steering team, at a minimum:~~

339  
 340 ~~(1) Open records requests (queue) at beginning of period;~~

341  
 342 ~~(2) Number of records requests received in the period by category;~~

343  
 344 ~~(3) Number of records requests closed in the period by category; and~~

345  
 346 ~~(4) Open records requests (queue) at end of period.~~

347  
 348 3.15.130 Resources devoted to public records disclosure.

349  
 350 ~~(a) The resources currently allocated to public disclosure response in~~  
 351 ~~the 2013-2014 budget are established as the initial level of effort~~

352 necessary to ensure that public disclosure response is not creating  
353 excessive interference with essential city government functions.

354  
355 ~~(b) Starting with the 2015-2016 biennial budget process, the city council~~  
356 ~~shall biennially determine and establish the level of effort to be devoted~~  
357 ~~to public records disclosure and the amount of resources to be~~  
358 ~~allocated. During the budget process, the city council will devote at least~~  
359 ~~a portion of a public work session or council meeting specifically to~~  
360 ~~public records response resource allocation before adopting the final~~  
361 ~~budget.~~

362  
363 ~~(c) The city council may reevaluate its determination as part of the mid-~~  
364 ~~year budget adjustment and modify the resource allocation.~~

365  
366 ~~(d) The city does not intend every employee to expend ten hours per~~  
367 ~~month responding to records requests. The limitation in Section~~  
368 ~~3.15.110(d) of up to ten hours per month for those city employees for~~  
369 ~~whom responding to records requests is not among their primary~~  
370 ~~assigned duties is not an allocation of resources available for other~~  
371 ~~public records responses.~~

372  
373 Section 2. Chapter 3.16.035 of the Kirkland Municipal Code is  
374 amended to read as follows:

375  
376 3.16.035 Department of finance and administration.

377  
378 There shall also be a department of finance and administration.  
379 The director of the department of finance and administration may, with  
380 the concurrence of the city manager, establish within the department  
381 functional divisions. The director of finance and administration may  
382 designate individuals ~~division managers~~ of the department as "public  
383 records officer," "city clerk," and "city treasurer."  
384

385 Section 3. If any provision of this ordinance or its application to  
386 any person or circumstance is held invalid, the remainder of the  
387 ordinance or the application to other persons or circumstances is not  
388 affected.

389  
390 Section 4. This ordinance shall be in force and effect five days  
391 from and after its passage by the Kirkland City Council and publication  
392 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary  
393 form attached to the original of this ordinance and by this reference  
394 approved by the City Council.

395  
396



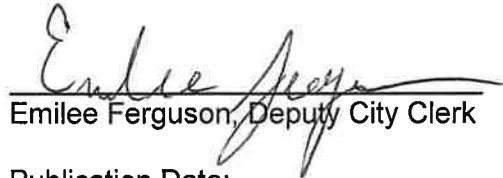
397  
398  
399  
400

Passed by majority vote of the Kirkland City Council in open meeting  
this 1<sup>st</sup> day of October, 2024.

Signed in authentication thereof this 1<sup>st</sup> day of October, 2024.

  
\_\_\_\_\_  
Kelli Curtis, Mayor

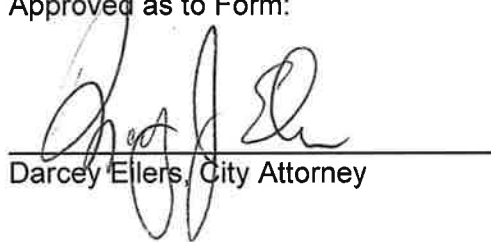
Attest:

  
\_\_\_\_\_  
Emilee Ferguson, Deputy City Clerk

Publication Date:

Publication Date: October 7, 2024.

Approved as to Form:

  
\_\_\_\_\_  
Darcey Eilers, City Attorney

PUBLICATION SUMMARY OF  
ORDINANCE NO. O-4887

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING CHAPTER  
3.15 OF THE KIRKLAND MUNICIPAL CODE (KMC) REGARDING  
ACCESS TO PUBLIC RECORDS AND KMC 3.16.035 REGARDING  
THE DEPARTMENT OF FINANCE AND ADMINISTRATION.

1            SECTION 1. Amends Kirkland Municipal Code (KMC) Chapter  
2 3.15 related to access to public records.  
3

4            SECTION 2. Amends KMC section 3.16.035 related to the  
5 definitions and roles of staff within the Department of Finance and  
6 Administration.  
7

8            SECTION 3. Provides a severability clause for the ordinance.  
9

10           SECTION 4. Authorizes publication of the ordinance by  
11 summary pursuant to KMC 1.08.017 and establishes the effective date  
12 as five days after publication of the summary.  
13

14           The full text of this Ordinance will be mailed without charge to  
15 any person upon request made to the City Clerk for the City of Kirkland.  
16 The Ordinance was passed by the Kirkland City Council at its meeting  
17 on the 1<sup>st</sup> of October, 2024.  
18

19           I certify that the foregoing is a summary of Ordinance No. O-  
20 4887 approved by the Kirkland City Council for summary publication.

  
Emilee Ferguson, Deputy City Clerk