

ORDINANCE NO. 1928

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, REPEALING ORDINANCE NO. 1727; AND, AMENDING CHAPTER 1-21 OF THE DAYTON MUNICIPAL CODE, ENTITLED "PUBLIC INDEXES AND RECORDS REQUESTS UNDER THE PUBLIC DISCLOSURE ACT"

WHEREAS, pursuant to the Public Records Act ("Act"), codified at Ch. 42.56 RCW, the Washington Legislature requires that each local agency shall provide rules of procedure for the guidance of the public in obtaining public records; and

WHEREAS, the City of Dayton is required by RCW 42.56.100 to adopt and enforce reasonable rules and regulations to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the City, consistent with the intent of the Public Records Act (PRA), referenced in RCW Chapter 42.56 and the Public Records Act - Model Rules of WAC 44-14;and

WHEREAS, the City may redact or withhold public records from production in response to public records requests when doing so is authorized or required by applicable; and

WHEREAS, pursuant to the RCW 42.56.580, the City must appoint and publicly identify a public records officer whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency's compliance with the public records disclosure requirements of the Public Records Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON do ordain as follows:

SECTION 1. REPEAL. Ordinance No. 1727 is hereby repealed in its entirety.

SECTION 2. AMEND. Chapter 1-21 of the Dayton Municipal Code is hereby amended as follows:

Chapter 1-21 PUBLIC RECORDS

Sections:

- 1.21.010 Authority and purpose.**
- 1.18.020 Location of Dayton City Hall – Contact information – Public records officer appointed.**
- 1.21.030 Availability of public records.**
- 1.21.040 Processing of public records requests – General.**
- 1.21.050 Processing of public records requests – Electronic records.**
- 1.21.060 Exemptions.**
- 1.21.070 Costs of providing copies of public records.**
- 1.21.080 Review of denials of public records.**

1.21.010 Authority and purpose.

- A. RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt “public records” in accordance with published rules. The Public Records Act (“PRA”), at RCW 42.56.010(3), defines “public record” 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 agency regardless of physical form or characteristics, and specifically excludes records that are not otherwise required to be retained by the agency. RCW 42.56.070(2) requires each agency to set forth “for informational purposes” every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.
- B. The purpose of this chapter is to establish the procedures the city of Dayton will 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 of Dayton and establish processes for both requestors and City of Dayton staff that are designed to best assist members of the public in obtaining such access.
- C. The purpose of the PRA 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 PRA and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the city of Dayton will be guided by the provisions of the PRA describing its purposes and interpretation.
- D. The provisions of this chapter shall not apply to court case records and administrative court records maintained by the Dayton municipal court in connection to judicial proceedings and records related to the management, supervision, or administration of the court. Access to these records is governed by Washington State Court Rules General Rule 31, General Rule 31.1, and case law.
- E. The provisions of this chapter shall not be construed to create any additional legal obligations upon the City or an independent cause of action against the City.

1-21.020 Location of Dayton City Hall – Contact information – Public records officer appointed.

- A. Dayton City Hall is located at: 111 S. 1st Street, Dayton, WA 99328.
- B. The city clerk is hereby designated as the public records officer for the City of Dayton. Any person wishing to request access to public records or seeking assistance in making a request should contact the City’s public records officer at:

Public Records Officer: Dayton City Clerk
City of Dayton
111 S. 1st Street
Dayton, WA 99328

The mayor may, in his or her discretion, assign additional staff and/or the city attorney to assist the city clerk in responding to public records requests.

- C. The public records officer will oversee compliance with the act but another employee or the city attorney may process the request. Therefore, these rules will refer to the public records officer “or designee.” The public records officer or designee and the City 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.

1.21.030 Availability of public records.

- A. Hours for Inspection of Records. Pursuant to the provisions of DMC 1.18.040(7), once public records are available for inspection and copying, they shall be made available to the requestor during normal business hours of the City of Dayton, 7:00 a.m. to 4:00 p.m., Monday through Thursday, excluding legal holidays. Records to be inspected must be viewed at the offices of the City of Dayton.
- B. Records Index. The City of Dayton finds that maintaining an index is unduly burdensome and would interfere with City operations. The requirement would unduly burden or interfere with City operations in the following ways: the magnitude and diversity of documents produced by city of Dayton departments and the employees within the departments, all utilizing their own computers, has resulted in the creation of many different indexes as created by the computer user. The diversity in computer program applications utilized on each personal computer and the organization of documents created by those applications is impossible to organize into a single index. The City of Dayton’s overall mission does not allow for the addition, revision, or reassignment of duties for existing personnel so that a single index can be developed and maintained without hiring additional staff. Anticipated revenue, along with adopted priorities for expenditures, does not allow for the hiring of additional staff whose job would be solely devoted to creating and maintaining a single, all-inclusive index.
- C. Organization of Records. The City of Dayton will maintain its records in a reasonably organized manner. The City of Dayton will take reasonable actions to protect records from damage and disorganization. A requestor shall not take original City of Dayton records from any of the City of Dayton’s offices.
- D. Internet Access to Records. Many records are also available on the City’s website. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.
- E. Making a Request for Public Records. A public records request must be for identifiable records. A request for “all or substantially all records” prepared, owned, used, or retained by the City is not a valid request for identifiable records; provided, that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of the City’s records. Any person wishing to inspect or copy public records of the City of Dayton should make the request in writing on the City of Dayton public records request form, by letter, fax, or email addressed to the public records officer to include the information listed below:
 - 1. Name of requestor;
 - 2. Address of requestor, if applicable;

3. Other contact information, including telephone number and/or email address;
 4. Sufficient identification/description of the public records being sought;
 5. The date of the request; and
 6. Whether the requestor wishes to:
 - a) Inspect the records (inspection of records is free of charge);
 - b) Have copies made of the records (cost charged to requestor);
 - c) Have the records copied to disc, if technically feasible (cost of disc charged to requestor);
 - d) Have the records scanned and provided via email or copied to disc (scanning cost and disc cost charged to requestor); or
 - e) Have the records provided via email, if technically feasible (cost charged to requestor).
- F. Request Form. A form for requesting public records is available for use by requestors at City Hall and online at the City's website.
- G. The City may deny a bot request that is one of multiple requests from the requestor within a 24-hour period, as responding to multiple requests of this nature would cause excessive interference with other essential functions of the city. "Bot request" means a request for public records that the city reasonably believes was automatically generated by a computer program or script.
- H. Accepting Public Records Requests. The public records officer or designee may accept requests for public records that contain the above information by telephone, fax, email, mail services, or in person. Faxed, emailed, and mailed requests are accepted based on the time that they were received not delivered.
- I. Readily Available Public Records. In the event the records requested in any department are readily available, of a routine nature, and do not involve the interest of any other person, the public records officer or designee may authorize the immediate inspection and/or copying of such record without the necessity of filing the request as provided in subsection (E) of this section.

1.21.040 Processing of public records requests – General.

- A. Prompt Response. The public records officer or designee will process requests in the order allowing the most requests to be processed promptly and in the most efficient manner.
- B. Acknowledging Receipt of Request. Within five business days of receipt of the request, the public records officer will acknowledge the request in one of the ways provided in this subsection:
1. Provide the record;
 2. Provide an Internet address and link on the City's website to the specific records request, unless the requestor notifies the agency they cannot access the records

through the Internet, then the City must provide copies of the record or allow the requester to view the copies; if copies are requested, provide the copies to the requestor after payment for the copies has been made by the requestor, or, if copies are being released in installments, after payment of a deposit is made pursuant to DMC 1.18.070;

3. Acknowledge the request and provide a reasonable estimate of time the City will require to respond to the request. Additional time needed to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the documentation requested, to notify third persons or agencies affected by the request, or to determine whether any of the information in the documentation requested is exempt and that a denial should be made as to all or part of the request;
 4. Acknowledge the request and ask for clarification of a request that is unclear, and providing, to the greatest extent possible, a reasonable estimate of the time needed to respond to the request if it is not clarified;
 5. 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 based on the clarification from the requestor. If the requestor fails to respond to the request to clarify and the entire request is unclear, the City of Dayton need not respond to the request. Otherwise the City will respond to the portions of the request that are clear; or
 6. Deny the request accompanied by a written statement of the specific reasons.
- C. Consequences of Failure to Respond. If the City of Dayton does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.
- D. Protecting Rights of Others. In the event that the requested records contain information that may affect the 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 seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.
- E. Records Exempt from Disclosure. Some records are exempt from disclosure, in whole or in part. If the City believes that a record is exempt from disclosure and should be withheld, the public records officer will 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 will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.
- F. Privilege Log. If the City determines that a record is exempt and should be withheld, in whole or in part, the city will create and maintain a privilege log of those records. The privilege log will identify:
1. Type of record withheld;

2. Date of record;
3. Number of pages;
4. Author and/or recipient;
5. The exemption invoked; and
6. Brief explanation of the exemption.

A copy of the privilege log will be produced to the records requestor.

G. Inspection of Records. If a requestor seeks an opportunity to inspect public records, and once the records are available for inspection, the following provisions apply:

1. Consistent with other demands, the City of Dayton shall promptly 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 agency to copy. The public records officer or designee will be present when records are being inspected.
2. The requestor must claim or review the assembled records within 30 days of the City of Dayton notification to him or her that the records are available for inspection or copying. The City will notify the requestor in writing of this requirement and inform the requestor that he or she should 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 30-day period or make other arrangements, the City of Dayton may close the request and refile 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.

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

I. Providing Records in Installments. When the request is for a large number of records, 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. If, within 30 days, the requestor fails to inspect either the entire set of records made available, or one or more of the installments made available, the public records officer or designee may stop searching for the remaining records and close the request.

J. Completion of Inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the City of Dayton has completed a diligent search for the requested records and made any located nonexempt records available for inspection and/or copying.

K. Closing Withdrawn or Abandoned Request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the City of Dayton has closed the request.

- L. Later Discovered Documents. If, after the City of Dayton has informed the requestor that it has provided all available records, the City of Dayton becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and make the records available for inspection or copying.
- M. No Duty to Create Records. The City is not obligated to create a new record in order to satisfy a request for records.

1.21.050 Processing of public records requests – Electronic records.

- A. Requesting Electronic Records. The process for requesting electronic public records is the same as the process for requesting paper public records.
- B. Providing Electronic Records. When a requestor requests records in an electronic format, if technically feasible, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the City of Dayton and is generally commercially available; or will provide the records in a format that is reasonably translatable from the format in which the City keeps the record.

1.21.060 Exemptions.

- A. Some categories of information and records may not be produced to the public pursuant to state and federal law. A list of such laws is available at the office of the city clerk and may be available at the city's website.
- B. The city of Dayton is prohibited by statute from disclosing lists of individuals for commercial purposes.

1.21.070 Costs of providing copies of public records.

- A. The City of Dayton finds that calculating the actual cost to charge the requestor is unduly burdensome and would interfere with the City operations. The amount of work involved in calculating the cost in providing copies for all separate requests would require a significant portion of one employee's time. The City of Dayton's overall mission does not allow for the addition, revision, or reassignment of duties for existing personnel so that these calculations can be done without hiring additional staff. Anticipated revenue, along with adopted priorities for expenditures, does not allow for the hiring of an additional employee for this purpose.

The City will charge the requestor for photocopies or electronically produced copies of public records in accordance with the charges set forth in RCW 42.56.120(2). Pursuant to that statute, the City will provide, upon request, a summary of the applicable charges before any copies are made to allow the requestor to revise the request to reduce the number of copies to be made and reduce the applicable charges.

- B. If a request requires the use of a commercial copy service, including but not limited to large-copy projects, color copies, and over-sized copies, the costs for copies will be the actual cost of the copies charged by such outside vendor.

The public records officer or designee may require a deposit of up to 10 percent of the estimated costs of copying the records selected or requested, including customized service charges. The public records officer or designee may also require payment in full of the remainder of the copying costs before providing all the records, after deducting any deposit paid. The public records officer or designee may request payment in full of the cost of copying an installment of records before providing that installment. The City will not charge sales tax when copies of public records are reproduced at City Hall; however, if copies must be sent to an outside vendor for copying, the cost of sales tax will be charged to the requestor.

- C. Costs for Electronic Records. The cost of providing electronic copies of records on a CD-ROM disc will be the actual cost. If electronically produced copies are being provided by email, cost for the records will be in accordance with RCW 42.56.120.
- D. Costs of Mailing. The City of Dayton may charge actual costs of mailing, including the cost of a shipping container and postage; and the actual cost of long distance fax transmission.
- E. Payment. Payment for the costs of records may be made by cash, check, or money order made payable to the City of Dayton.
- F. The requestor may challenge the City's fee estimate when the requestor believes the city has not made a "reasonable estimate of the charges to produce the copies of records" by seeking judicial review of the City's action by filing a motion in Columbia County superior court pursuant to the provisions of RCW 42.56.550.
- G. The City of Dayton has the discretion to waive charges for photocopies or electronically produced copies of public records. The City may also enter into a contract, memorandum of understanding, or other agreement with a requestor that provides an alternative fee arrangement to the charges authorized in RCW 42.56.120, or in response to a voluminous or frequently occurring request.

1.21.080 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 (including email) 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 city attorney with a copy to the Mayor. The city attorney will consider the petition and either affirm or reverse the denial within two business days following the city of Dayton's receipt of the petition, or within such other time as the city attorney and the requestor mutually agree.
- C. Judicial Review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative review.

1. 21.090 Disclaimer of Liability.


Neither the City nor any officer, employee, official or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon a release of public records if the person releasing the records acted in good faith in attempting to comply with Chapter 1.21 DMC.

SECTION 3. SEVERABILITY. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the other remaining parts which shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE. A summary thereof of this Ordinance consisting of its title shall be published in the official newspaper of the City of Dayton, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF DAYTON, WASHINGTON, THIS 14TH DAY OF MARCH, 2018.

THE CITY OF DAYTON

By: 
Craig George, Mayor

Attest:


Trina Cole, City Clerk-Treasurer

Approved as to Form:


Quinn Plant, City Attorney

