

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 4464

AN ORDINANCE regarding disclosure of public records, and exemptions to disclosure; and amending Bellevue City Code Sections 2.26.020, 2.26.030, 2.26.075 and 2.26.085.

WHEREAS, the State Legislature amended RCW Chapter 42.17, regarding disclosure of public records, by adoption of Engrossed Substitute House Bill 2876 during the 1992 regular session; and

WHEREAS, the City Council desires to amend Bellevue City Code Chapter 2.26, regarding disclosure of public records, to bring it into conformity with the amendments accomplished by Engrossed Substitute House Bill 2876, and previous amendments to RCW Chapter 42.17; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Bellevue City Code 2.26.020 is amended to read as follows:

2.26.020 Exempt public records.

The following shall be exempt from public inspection and copying:

- A. Personnel information in any files maintained for city employees, appointed or elected officials, to the extent the disclosure would violate their right to privacy;
- B. Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would be prohibited to such persons by RCW 82.32.330 or would violate the taxpayer's right to privacy and would result in unfair competitive disadvantage to such taxpayer;
- C. Specific intelligence information and specific investigative files compiled by investigative law enforcement and penology agencies and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;
- D. Information revealing the identity of persons who are witnesses to or victims of a crime or who file complaints with investigative, law enforcement or penology agencies, if disclosure would endanger any person's life, physical safety, or property; provided, that if at the

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time the complaint is filed, the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern;

- E. Test questions, scoring keys and other examination data used to administer a license or employment examination, including civil service examinations;
- F. Except as provided by RCW Chapter 8.26, the contents of any real estate appraisals made for and by any agency, including the city, relative to the acquisition or sale of property by the city, until the project or prospective sale is abandoned or until such time as the property has been acquired, or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the date of the appraisal;
- G. Valuable formulae, designs, drawings and research data obtained or produced by the city, its officers, employees and agents within five years of any request for disclosure thereof, when disclosure would produce private gain and public loss;
- H. Preliminary drafts, notes, recommendations and intraagency memoranda in which opinions are expressed or policies formulated or recommended, unless such a record is publicly cited by an agency in connection with any official agency action;
- I. Records which are relevant to a controversy to which the city or any of its officers, employees or agents is a party, but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.
- J. All applications for employment with the city, including the names of applicants, resumes and other related materials submitted with respect to an applicant.
- K. The residential addresses and telephone numbers of employees or volunteers of the city which are held by the city in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.
- L. The residential addresses and telephone numbers of the customers of city utilities contained in the records or lists held by such utilities.
- M. Client records maintained by the city under its domestic violence program as defined in RCW 70.123.020 or rape crisis center records as defined in RCW 70.125.030.

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- N. Information that identifies a person who, while a city employee:
(i) Seeks advice, under an informal process established by the city, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and
(ii) requests his or her identity or any identifying information not be disclosed.
- O. Any record which is exempt from disclosure under state or federal law.

The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital government interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the King County Superior Court finds, after a hearing with notice thereof to every person in interest and the city, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital government function.

If the city refuses, in whole or in part, inspection of any public record under this section it shall include a statement of the specific exemptions authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Section 2. Bellevue City Code 2.26.030 is amended to read as follows:

2.26.030 Procedure for inspection or copying.

Persons wishing to inspect or copy city records should first make such request to the department of the city which maintains the records requested. If the requestor does not know in which department such records are maintained, the request shall be made to the City Clerk. The City Clerk shall direct the requestor to the appropriate department. All assistance necessary to help the requestor locate the particular record shall be provided by the City Clerk and the department maintaining the records; provided, that the giving of such assistance does not unreasonably disrupt the operation of the department or the other duties of the assisting employee.

Section 3. Bellevue City Code 2.26.075 is amended to read as follows:

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2.26.075 Request for public records--Department decision--Review of decision--Grant or denial of public records.

- A. Upon receiving a request to inspect a copy of public record, the department shall grant the request unless it determines that the record requested is or may be exempt from disclosure in whole or in part or that uncertainty exists as to whether the record is exempt from disclosure in whole or in part, in which case the department shall require that a written request for public records form be completed by the requestor.
- B. The completed written request for public record shall immediately, upon receipt by the department, be delivered by the department to the City Clerk unless the request is to inspect or copy a record maintained by the police department, in which case the form shall be immediately delivered to the police legal advisor.
- C. Upon receiving a completed written request for records form, the City Clerk, or police legal advisor, in the case of a request to inspect or copy a record maintained by the police department, shall determine whether the record requested is exempt by law from inspection and copying in whole or in part. The City Clerk shall consult with the city attorney in making such determination. In the case of a request to inspect or copy a record maintained by the police department, the police legal advisor shall first make a preliminary determination whether the record requested is exempt by law from inspection or copying in whole or in part. If the police legal advisor determines that the record requested is exempt from inspection or copying in whole or in part, he or she shall consult with the city attorney before a final decision is made on the record request. Within five business days of the date of receipt by the city of the written request for a record, the City Clerk or police legal advisor in the case of a request to inspect a record maintained by the police department, shall:
- (1) provide the record;
 - (2) acknowledge that the city has received the request and provide a reasonable estimate of the time the city will require to respond to the request;
 - (3) deny the public record request.

Additional time to respond to a request under (2) above may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the

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information requested is exempt and a denial shall be made to all or part of the request.

In acknowledging receipt of a public records request that is unclear, the City Clerk, or police legal advisor, may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the city need not respond to it.

- D. If the City Clerk, or police legal advisor in the case of a request to inspect or copy a record maintained by the police department, determines that the document is exempt in part but can be made available after deletion of exempt portions, the request shall be granted; provided, that such exempt portions shall first be deleted. If the City Clerk, or police legal advisor in the case of a request to inspect or copy a record maintained by the police department, determines to deny the request, in whole or in part, a written statement of the specific reasons for the denial shall be provided the requestor.
- E. A decision by the City Clerk or police legal advisor denying inspection shall be reviewed by the city attorney. Such review shall be deemed completed 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.

Section 4. Bellevue City Code 2.26.085 is amended to read as follows:

2.26.085 Administrative rules.

The city manager, upon recommendation of the City Clerk, may issue rules for the implementation of this chapter.

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Section 5. This ordinance shall take effect and be in force thirty days after its passage and legal publication.

PASSED by the City Council this 4th day of January, 1993, and signed in authentication of its passage this 4th day of January, 1993.

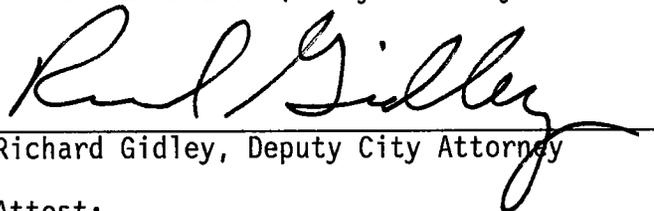
(SEAL)



Cary Bozeman, Mayor

Approved as to form:

Richard L. Andrews, City Attorney



Richard Gidley, Deputy City Attorney

Attest:



Myrna L. Basich, City Clerk

Published January 8, 1993