ORDINANCE NO. 2011-04

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to public records requests and amending Section 2.80 of the Bainbridge Island Municipal Code (BIMC).

WHEREAS, in 2006, the Washington State Legislature adopted the Public Records Act (RCW 42.56) which supersedes the Public Records Disclosure Act (RCW 42.17);

WHEREAS, the City last updated its public records rules and regulations in 2005;

WHEREAS, the City Council has determined that it is in the best interest of the City of Bainbridge Island to amend BIMC Chapter 2.80 to reflect and be consistent with RCW 42.56 and current practice;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 2.80.010 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

> **2.80.010 Relationship to Public Records Disclosure Act.**
> This chapter constitutes the city's rules and regulations to carry out and implement the Public Records ~~Disclosure~~ Act, Chapter 42.~~17~~56 RCW. Except as provided in this chapter, Chapter 42.~~17~~56 RCW shall apply to all city public records.

Section 2. Section 2.80.020 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

> **2.80.020 Disclosure of public records.**
> Unless exempt from disclosure under this chapter, public records shall be available for inspection and copying in accordance with this chapter. The city shall make public records promptly available, and shall provide them on a partial or installment basis as they are assembled or are available for inspection or disclosure. The city shall not deny a public records request for identifiable public records solely on the basis that the request is overbroad. The city clerk~~director of finance and administrative services~~ is designated as the city's public records officer who shall oversee the city's compliance with the public records requirements of this chapter and Chapter 42.~~17~~56 RCW. The public records officer may delegate the duties and responsibilities of complying with a public records request to the deputy city clerk or other city employee. The public records officer shall

make available for public inspection and copying, in accordance with this chapter, all public records filed with the public records officer, including but not limited to ordinances, resolutions, general city policies, city council meeting minutes, contracts, agreements, deeds and leases.

Section 3. Section 2.80.030 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2.80.030 Definitions of public records and writing.
A. "Public record" means 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, regardless of physical form or characteristics.

B. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording, any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, emails, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained translated.

Section 4. Section 2.80.040 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2.80.040 ~~Posting of c~~City organization and rules for obtaining information.
The city clerk shall ~~prominently display in the city clerk's office and~~ make available for inspection and copying for guidance of the public:

A. Descriptions of the city's organization; and

B. The city's public records act administrative rules~~Places at which, the employees from whom and the methods whereby, the public may obtain information, make submittals or requests or obtain copies of city decisions~~.

Section 5. Section 2.80.050 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2.80.050 Indexing of records.
~~The city clerk shall maintain and make available for public inspection and copying a current index providing identifying information as to all public records filed with the city clerk. Pursuant to BIMC 2.80.020, the city shall~~

~~not maintain any other current indexes.~~ Maintaining a central index of city records is unduly burdensome, costly, and would interfere with city operations due to the number and complexity of records generated as a result of a wide range of city activities. The public records officer may, however, index and maintain general administrative records. Other records that relate to the specific function or responsibility of a particular department shall be maintained in the offices of the particular department. The public records officer will coordinate responses to public records requests with the departments and responsive records shall be made available for public inspection and copying.

Section 6. Section 2.80.060 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2.80.060 Exemptions.

A. The public records identified in RCW 42.~~17.310~~56, and future amendments thereto, are incorporated in this chapter and shall be exempt from public inspection and copying. The city clerk shall maintain and make available for public inspection and copying a current version of RCW 42.~~17.310~~56.

B. The exemptions from public disclosure set forth in RCW 42.~~17.310~~56 and as incorporated into subsection A of this section, shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy, can be deleted from the specific public record sought. A person's right to personal privacy is violated if disclosure of information about the person would be highly offensive to a reasonable person and is not of legitimate concern to the public. No exemption shall be construed to permit the non-disclosure of statistical information not descriptive of any readily identifiable person or persons.

C. Inspection or copying of any public records exempt under this section may be permitted if any superior court finds, after a hearing with notice to the requester, all persons mentioned in the public records and the city, that the exemption of such public records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

D. Nothing in this section shall affect a duty of the city to disclose or withhold information pursuant to any other law.

Section 7. Section 2.80.070 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2.80.070 Procedure for inspection or copying.

A. Persons wishing to inspect or copy public records shall file a ~~written~~ request in person, by phone or by mail (U.S., special delivery or electronic) ~~("written request")~~ to the public records officer.

All assistance necessary to help the requester locate the public records shall be provided promptly by the public records officer~~.~~ provided that ~~T~~the assistance shall not unreasonably disrupt the ~~normal~~ daily operations of the city clerk or other duties of any assisting employee(s) in other city departments ~~finance and administrative services department~~.

B. The public records officer shall not distinguish among persons requesting public records. Persons requesting public records shall not be required to provide information as to the purpose for the request, except to establish whether the inspection or copying would violate ~~RCW 42.17.260(9) (~~the prohibition on providing a list of individuals for commercial purposes~~)~~ or other any statute or ordinance which exempts or prohibits disclosure of specific information or records based on the purpose of the request or the intended use of the records~~as to certain persons~~.

Section 8. Section 2.80.080 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2.80.080 Reimbursement for copying costs.

A. There shall be no charge for inspection of public records or for locating public records and making them available for copying. The per-page cost for copies of public records made by city equipment shall be established by city council resolution. If copies of public records are mailed or delivered, the city shall charge the actual postage or delivery charge and a fee for the container or envelope, in amounts established by city council resolution. The city may require a deposit in an amount not to exceed 10 percent of the estimated cost of providing the copies. If the city makes copies of public records available on a partial or installment basis, the city may charge for each part of the partial disclosure or installment. If an installment of a records request is not claimed or reviewed, the city need not fulfill the balance of the request.

B. At its option, the city may send out public records for copying by companies or other municipalities. The requester shall pay the actual cost to the city of copying such public records.

C. For making copies of audio and video tape recordings and copying electronic records onto compact discs, the charges shall be established by city council resolution based on the actual costs to the city. ~~city shall charge the actual cost of the blank tapes; provided, that the requester may~~

~~provide the blank tapes. There shall be no charge for making a copy of the tape recording on city equipment.~~ If the city uses a company or another municipality to make a copy of the tape or audio or video recording, the requester shall pay the actual cost to the city of making such ~~tape~~ recording.

D. Where the request is for a certified copy of a public record, there shall be an additional charge in the amount established by city council resolution.

E. The public records officer may provide copies of public records at no charge to governmental agencies doing business with the city, if the public records officer determines that such action is in the best interests of the city.

Section 9. Section 2.80.090 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2.80.090 Decision on public records requests – Procedure for review of decision.

A. Upon receiving a ~~written~~ request to inspect or copy a public record, the public records officer shall grant the request unless the public records officer determines that the public record requested is or may be exempt from disclosure in whole or in part. Within five business days of the date of receipt by the city of the ~~written~~ request, the public records officer shall respond by:

1. Providing the record; or

2. Acknowledging that the city has received the request and providing a reasonable estimate of the time required by the city to respond to the request; or

3. Denying the request.

Additional time to respond to a request may be based upon the need to clarify the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine the exemption from disclosure of any of the requested information. If a request is unclear, the public records officer may ask the requester to clarify the request. If the requester fails to clarify the request, the city need not respond to the request.

B. If the public records officer determines that the document is exempt in part but can be made available after deletion of exempt portions or after deletion of portions which would invade personal privacy, the request

shall be granted; provided, that such exempt portions shall first be deleted. If the public records officer determines to deny the request, in whole or in part, a written statement of the specific reasons for the deletion of portions of the public record or the denial of the request shall be provided to the requester.

C. A decision by the public records officer denying inspection shall be reviewed by the city ~~attorney~~ manager. The 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 requester shall be notified in writing ~~by mail~~ of the decision to grant or deny the request.

Section 10. Section 2.80.110 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2.80.110 Administrative rules.
The city manager~~, upon recommendation of the city clerk,~~ may issue rules for the implementation of this chapter.

Section 11. Section 2.80.120 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

2.80.120 Declaimer of liability.
The city shall not be liable, nor shall a cause of action exist for any loss or damage based upon the release of a public record if the city acted in good faith in attempting to comply with the provisions of this chapter and Chapter 42.~~17~~56 RCW.

Section 12. This ordinance shall take effect and be in force five (5) days from its passage, approval, and publication as required by law.

PASSED BY THE CITY COUNCIL this 8th day of June, 2011.

APPROVED BY THE MAYOR this 8th day of June, 2011.

Kirsten Hytopoulos, Mayor

ATTEST/AUTHENTICATE:

Rosalind D. Lassoff

Rosalind D. Lassoff, City Clerk

FILED WITH THE CITY CLERK:	May 27, 2011
PASSED BY THE CITY COUNCIL:	June 8, 2011
PUBLISHED:	June 10, 2011
EFFECTIVE DATE:	June 15, 2011
ORDINANCE NUMBER:	2011-04