

ORDINANCE NO. 2018-981

**AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON, AMENDING CHAPTER 2.05 OF THE DEER PARK MUNICIPAL CODE, REGARDING PROCEDURES FOR RESPONDING TO PUBLIC RECORDS REQUESTS, CONTAINING A SEVERABILITY PROVISION, AND SETTING AN EFFECTIVE DATE.**

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WHEREAS, the City of Deer Park ("City") previously enacted Chapter 2.05 of the Deer Park Municipal Code ("DPMC") governing the treatment of public records requests made pursuant to the Washington State Public Records Act, Chapter 42.56 RCW ("PRA"); and

WHEREAS, RCW 42.56.030 authorizes the City to publish procedures for responding to public record requests; and

WHEREAS, due to recent amendments to the PRA, including in particular to provisions regarding charges for production of records, the Mayor and City staff have determined the City should also amend its regulations contained in Chapter 2.05 DPMC governing responses to public records requests to be consistent with the amendments to the PRA; and

WHEREAS, as required by amendments to RCW 42.56.070(7), the City conducted a properly noticed public hearing on the 19th day of December, 2018 to consider and evaluate the costs for providing copies of public records to be established and set forth in the amendments to Chapter 2.05 DPMC; and

WHEREAS, the Mayor and City staff have reviewed the requirement and procedures set forth in this Ordinance and propose that the City adopt the same; and

WHEREAS, the City Council concurs with said proposal to adopt the procedures set forth herein; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Chapter 2.05 of the Deer Park Municipal Code is hereby amended to read as follows:

**Chapter 2.05**

**PUBLIC RECORDS**

**Sections:**

- 2.05.010 Purpose.**
- 2.05.015 Interpretation and Construction.**
- 2.05.020 Public Records Available.**
- 2.05.010 Public Records Index.**
- 2.05.050 Exempt Records.**
- 2.05.060 Public Records Officer Designated.**
- 2.05.070 Public Records Requests - How Made.**
- 2.05.080 Inspection of Public Records.**
- 2.05.090 Response to Public Records Requests.**
- 2.05.100 Copying and Mailing Fees.**
- 2.05.110 Protection of Public Records.**
- 2.05.120 Records Scheduled for Destruction.**
- 2.05.130 Searching Public Records - Back-up and Security Copies.**
- 2.05.140 Review of Denials of Public Records Requests.**
- 2.05.150 Electronic Records.**
- 2.05.160 Copies of Chapter Available to Public.**

**2.05.010 Purpose.**

The purpose of this Chapter is to provide rules by which the City implements the provisions of the Public Records Act, Chapter 42.56 RCW, as existing or hereafter amended, for the City's public records.

**2.05.015 Interpretation and Construction.**

The provisions of this Chapter shall be liberally interpreted and construed to promote full access to the City's public records in order to assure continuing

public confidence in government: provided, that when making public records available the City shall prevent unreasonable invasions of privacy, shall protect public records from damage, loss, or disorganization, and shall prevent excessive interference with essential government functions.

**2.05.020 Public Records Available.**

Public records shall be made available for public inspection and copying pursuant to this Chapter, except as otherwise provided by law.

**2.05.030 Public Records Index.**

A. The City does hereby formally order that maintaining an index of public records pursuant to RCW 42.56.070 would be unduly burdensome for the following reasons:

1. The initial construction and subsequent maintenance of such an index would be a financial burden upon the City.
2. The City does not have sufficient staffing available to initially prepare and subsequently maintain such a comprehensive index.

B. The City shall make available for public inspection and copying any index maintained by the City for City use.

**2.05.050 Exempt Records.**

The City hereby adopts the list of laws maintained by the Municipal Research Services Center of Washington (MRSC) as the list containing every law, other than those specifically set forth in the Public Records Act, which the City believes exempts or otherwise prohibits disclosure of specific records or information of the City. Public records and information exempt from disclosure under the Public Records Act or any other law are exempt from disclosure under this Chapter whether or not such exemption is on any list of exemptions adopted, published, or maintained by the City.

**2.05.060 Public Records Officer Designated.**

A. The Public Records Officer shall serve as the point of contact for members of the public who request disclosure of public records. The Public Records Officer shall be responsible for implementation of and compliance with this Chapter and the Public Records Act.

- B. The City Clerk is the Public Records Officer for the City.

**2.05.070 Public Records Requests - How Made.**

A. Public records may be inspected and/or copies may be obtained under the following procedures:

1. A request for public records shall be directed to the Public Records Officer for the City. 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 under this chapter or state law, 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.

2. A request for public records should be documented in writing and include the following information:

- a. The requester's name, mailing address, email address, and telephone number;
- b. The date of the request;
- c. A clear indication that the document is a "Public Records Request;"
- d. Whether the request is to inspect the public records or for paper or electronic copies of public records, or both;
- e. A clear description of the public records requested for inspection and/or copying and the office or department having custody of the public records;
- f. If the request is for a list of individuals, a statement that the list will not be used for any commercial purposes or that the requester is authorized or directed by law to obtain the list of individuals for commercial purposes, with a specific reference to such law; and
- g. Whether the request is for printed or digital copies of the public record.

B. The City shall develop and maintain forms to facilitate public record requests. Although use of the City provided forms are preferred, the City will also honor email or other written requests including the information contained in subsection A(2) above.

**2.05.080 Inspection of Public Records.**

Public records shall be inspected at City Hall during normal business hours when the City Hall is open to the public; provided, that there is no

obligation to allow inspection immediately upon a demand. The Public Records Officer may request that the person seeking to inspect public records schedule an appointment for inspection.

**2.05.090 Response to Public Records Requests.**

A. The Public Records Officer shall, to the extent practicable, assist requesters in identifying the public records sought.

B. There is no obligation to allow inspection or provide a copy of a public record on demand.

C. Within five business days after receiving a public record request, the Public Records Officer shall respond to the request in writing. The Public Records Officer shall make one or more of the following responses:

1. The request for inspection of public records is approved and an appointment for inspection may need to be scheduled by the requester;
2. The request for copies of public records is approved and the copies of all requested records are either enclosed with the response, or will be provided upon payment of copy charges (if any);
3. The request for records is approved and are available on the City's website with a link to the site including the specific records;
4. The request has been received by the Public Records Officer, that additional time is needed to respond to the request, and stating a reasonable estimate of the time required to respond;
5. The request has been received by the Public Records Officer and the records shall be provided on a partial or installment basis as the records are identified, located, assembled and/or made ready for inspection or copying;
6. The request is denied, in whole or in part, whether by withholding a requested record or redacting a requested record, stating the specific exemption(s) prohibiting disclosure and a brief explanation of how the exemption applies to each withheld and redacted record;
7. There are no records responsive to the request; and/or

8. Notifying the requestor that the Public Records Officer does not understand the request and requesting that the requestor clarify the request to enable the Public Records Officer to respond to the same.

D. When a request for public records is received that concerns a subject that may involve litigation that is pending, threatened or anticipated, the Public Records Officer shall promptly notify the City Attorney of the request. Copies of the request, all correspondence between the Public Records Officer and the requester, and copies of the public records provided to the requester shall be delivered to the City Attorney. The requester shall not be charged for copies delivered to the City Attorney.

#### **2.05.100 Copying and Mailing Fees.**

A. No fee shall be charged for the inspection of public records, except as otherwise authorized by RCW 42.56.120, as existing or hereafter amended.

B. No fee shall be charged for locating public documents and making them available for copying except as otherwise authorized by RCW 42.56.120, as existing or hereafter amended.

C. The City has not calculated the actual cost to provide copies of public records as doing so would be unduly burdensome to the City staff. As a result, the City charges the maximum fees and charges authorized to be charged for providing paper and electronic copies of public records set forth in RCW 42.56.120, as existing or hereafter amended. The City shall charge the following:

1. The maximum per page copy charge set forth in RCW 42.56.120(2)(b)(i), as existing or hereafter amended, for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of City equipment to photocopy public records.
2. The maximum per page copy charge set forth in RCW 42.56.120(2)(b)(ii), as existing or hereafter amended, for public records scanned into an electronic format or for the use of City equipment to scan the records.
3. The maximum per file charge set forth in RCW 42.56.120(2)(b)(iii), as existing or hereafter amended for each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery.

4. The maximum per gigabyte charge set forth in RCW 42.56.120(2)(b)(iv), as existing or hereafter amended, for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically.
5. Actual costs of any digital media or device provided by the City and/or the actual costs of any container or envelope used to mail or provide copies to the requestor.
6. Actual costs to reproduce other non-standard size documents shall be charged.
7. Actual mailing costs shall be charged.

D. In addition to the charges imposed for providing copies of public records set forth above, the City may include a customized service charge for responses to certain requests. A customized service charge may only be imposed if the City determines that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the City for other City purposes.

1. The customized service charge may reimburse the City up to the actual cost of providing the services in this subsection.
2. The City may not assess a customized service charge unless the Public Records Officer, or designee, has notified the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate cost of the charge. The notice also must provide the requestor the opportunity to amend his or her request in order to avoid or reduce the cost of a customized service charge.

E. The Public Records Officer is authorized to request a pre-payment deposit in an amount estimated to cover up to ten percent (10%) of the actual copying, electronic file transfer, mailing, and/or customized service charges.

F. The City must receive payment, in full, for the costs and charges to provide the records, including any installment of records, as authorized by this chapter on or before the date the records are made available to the requestor. The City will not mail or otherwise release records until payment has been received for the available records or installment of records. Failure to pay for or pick up any records or installment of records within 30 days of notice of

availability of the records will result in cancellation of the request for public records.

**2.05.110 Protection of Public Records.**

The Public Records Officer shall, to the extent practicable, insure that records requested are not misplaced, mistreated, or misfiled by members of the public during inspections and not removed from the City office. Original public records shall not be released to the public for any purpose.

**2.05.120 Records Scheduled for Destruction.**

If a public record request is made at a time when a record exists, but the record is scheduled for destruction in the near future, the Public Records Officer shall direct that the record be retained until the request is resolved.

**2.05.130 Searching Public Records - Back-up and Security Copies.**

In order to prevent excessive interference with essential functions of the City, the City shall not search backup or security systems for copies of public records when the originals of such records have been identified, located and are available for inspection and/or copying.

**2.05.140 Review of Denials of Public Records Requests.**

A. Any person who objects to the denial of a request for a public record may petition the Mayor for prompt review of such decision by delivering a written request to the Mayor and including all written responses by the Public Records Officer denying the request.

B. The Mayor shall affirm, modify or reverse the denial in writing within seven (7) business days following receipt of the written request for review, or within such other time to which the City and the requestor may mutually agree.

C. A requester's administrative remedies shall not be deemed exhausted until the Mayor has made a written decision or until the close of the seventh business day following receipt by the Mayor of the request for review of the public records request, whichever occurs first.

D. The City shall be deemed to have made a final decision denying a request for public records only after a review conducted under this section has been completed.

### **2.05.150 Electronic Records.**

The City produces and maintains certain data in electronic records or formats to maximize efficiency in fulfilling its basic public service functions. These electronic records relate to the operation and conduct of City government and typically include electronic mail and communications, financial data, property records, property assessment records, filed documents, maps, etc.

A. Electronic records are public records subject to disclosure under the Public Records Act and this Chapter, unless exempt from disclosure under state or federal law.

B. Electronic records will, to the extent possible, be provided in their native electronic format. At the option of the Public Records Officer, and subject to approval by the requestor, electronic records may be printed and provided in paper format. If the electronic record is large and/or not capable of being printed or provided in an understandable electronic format, then the electronic record may be provided in the digital format selected by the City. The City does not have the obligation to convert an electronic record to a digital format that is different than the format maintained by or available to the City, or to use the precise format requested by a requestor.

C. Fees for providing electronic records in electronic form are set forth in Section 2.05.100 DPMC. Overhead for information system acquisition and maintenance shall not be included in such fees.

D. The City does not warrant or in any way guarantee the accuracy or completeness of electronic records.

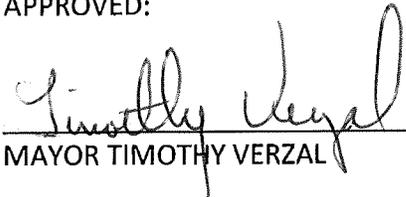
### **2.05.160 Copies of Chapter Available to Public.**

Copies of this Chapter and public records request forms shall be available to and provided to the public, without cost, at City Hall.

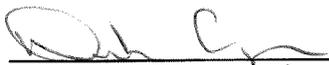
Section 2. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or the constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. This Ordinance shall take effect and be in full force five (5) days after this Ordinance or a summary thereof consisting of the title is published.

APPROVED:

  
MAYOR TIMOTHY VERZAL

ATTEST:

  
CITY CLERK DEBY CRAGUN

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

  
JULIE K. NORTON

FILED WITH THE CITY CLERK: November 9, 2018  
PASSED BY THE CITY COUNCIL: February 6, 2019  
PUBLISHED: February 9, 2019  
EFFECTIVE DATE: February 15, 2019  
**ORDINANCE NO. 2018-981**

SUMMARY OF ORDINANCE NO. 2018-981

of the City of Deer Park, Washington

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On the \_\_\_ day of \_\_\_\_\_, 2018, the City Council of the City of Deer Park, Washington, passed Ordinance No. 2018-981. A summary of the content of said ordinance, consisting of the title, provides as follows:

**AN ORDINANCE OF THE CITY OF DEER PARK, WASHINGTON, AMENDING CHAPTER 2.05 OF THE DEER PARK MUNICIPAL CODE, REGARDING PROCEDURES FOR RESPONDING TO PUBLIC RECORDS REQUESTS, CONTAINING A SEVERABILITY PROVISION, AND SETTING AN EFFECTIVE DATE.**

The full text of this Ordinance will be mailed upon request.

DATED this \_\_\_ day of \_\_\_\_\_, 2018.

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CITY CLERK DEBY CRAGUN