

CITY OF WHITTIER
ORDINANCE NO. 01-2016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA AMENDING WHITTIER MUNICIPAL CODE SECTION 2.14.010, OPEN RECORDS; WHITTIER MUNICIPAL CODE SECTION 2.14.020, ACCESS AND INSPECTION OF RECORDS; WHITTIER MUNICIPAL CODE SECTION 2.14.030, COPIES OF RECORDS; AND WHITTIER MUNICIPAL CODE SECTION 2.14.050, EXEMPTIONS FOR PARTICULAR RECORDS; REGARDING PUBLIC ACCESS TO CITY RECORDS.

Section 1. Classification. This Ordinance is a permanent code ordinance.

Section 2. Amendment of Section. Whittier Municipal Code Section 2.14.010, Open records, is amended to read as follows:

2.14.010 Open records.

A. Definition of public records. Public records include books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by the City, or by a private contractor for the City, and that are preserved for their informational value or as evidence of the organization or operation of the city; public records do not include proprietary software programs, reference documents, or transitory documents. In this section:

1. "Reference document" means a writing or image that is acquired or created solely for the purpose of creating or incorporation into a record, and includes, without limitation, notes, calculations, and working papers.

2. "Transitory document" means a writing or image that after its immediate use has no value as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the City, and includes without limitation transmittals, suspense copies when a reply has been received, routine requests for information, and routine appointment and scheduling requests.

B. Public records open to inspection. Except as provided by WMC 2.14.050, or by other provision of municipal, State or Federal law, the public ~~books, records, papers, files, accounts, writings and transactions~~ of the City are open to inspection by the public under reasonable rules during regular office hours. The City of Whittier recognizes the competing interest of personal privacy and the right of the public to have access to information concerning the conduct of the people's business.

Section 3. Amendment of Section. Whittier Municipal Code Section 2.14.020, Access and inspection of records, is amended to read as follows:

2.14.020 Access and inspection of records.

Public records may be inspected at the City office where the records are kept during the regular office hours of that particular office. All City officers and employees shall, consistent with the orderly conduct of City business, make a good faith and diligent

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effort to respond to requests for inspection of records made pursuant to this code. If the City office is unable to produce the documents at the time of request an appointment shall be made to produce the documents no later than five working days after 72 hours from the time of request and any items requested not produced and not denied shall receive a written reason and attempt to reschedule delivery of items. ~~If one or more requests by a single requester or agent of a requester within a calendar month are anticipated to require more than four person hours to complete, the City may require the requester to pay costs for the period in excess of four hours. The costs may not exceed the unit cost of salary and benefits for employees who are involved in the search. Except in the case of news organizations, authorized search costs must be paid before the records are searched.~~

Section 4. Amendment of Section. Whittier Municipal Code Section 2.14.030, Copies of records, is amended to read as follows:

2.14.030 Copies of records; Costs of search and copying.

A. Certified Copies. The City Clerk shall give, on request and payment of costs, a certified copy of any public records required to be disclosed under this code.

B. Photographic or Other Copies. The City shall provide copies of records only at the request of the requester and at the requester's expense. Except as otherwise provided in this section, the fee for copying public records may not exceed the standard unit cost of duplication established by the City Manager.

C. If the production of records for one requester in a calendar month exceeds five person-hours, the City shall require the requester to pay the personnel costs required during the month to complete the search and copying tasks. The personnel costs may not exceed the actual salary and benefit costs for the personnel time required to perform the search and copying tasks. The requester shall pay the fee before the records are disclosed, and the City may require payment in advance of the search. ~~Charge for Copies. The charge for copies (whether certified or not) may not exceed the cost to the City, which cost may include photocopy, clerical and other costs directly related to the provision of the copies. Payment for copies must be received before making the copies, except in the case of a request from an employee or agent of a news organization. The City Clerk is authorized to establish rates and charges for copies of public records, both certified and photographic, and for clerical time as set forth in WMC 2.14.020 and in subsections (A) and (B) of this section. The City Clerk may, in his or her discretion, waive charges for incidental copies.~~

D. The City Manager may reduce or waive a fee when the City Manager determines that the reduction or waiver is in the public interest. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated. The City Manager may waive a fee of \$5 or less if the fee is less than the cost to the City to arrange for payment.

Section 5. Amendment of Section. Whittier Municipal Code Section 2.14.050, Exemptions for particular records, is amended to read as follows:

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2.14.050 Exemptions for particular records.

This ~~chapter does not code shall not be construed~~ to require disclosure of the following public records or information:

A. Confidential or privileged public records. Public records containing information which is accorded confidential or privileged status under this code, or under state or federal law, are open to public inspection only in a manner that does not disclose such confidential or privileged information.

B. Public records sought by a party involved in litigation shall be disclosed in accordance with the rules of procedure applicable in a court or administrative adjudication. In this subsection, "involved in litigation" means a party to litigation or a party representing a party to litigation, including a person who is obtaining records for the party. Personnel, payroll or medical files which reveal the financial or medical status of any specific individual, the release of which would constitute an unwarranted invasion of privacy.

CB. Records of vital statistics and adoption proceedings.

DC. Records pertaining to juveniles.

ED. Medical and related public health records.

FE. Records required to be kept confidential by Federal law or regulation or by State law.

F. Trade secrets.

G. Patented and/or copyrighted material.

H. Organized, coordinated, collated, modified, created, interpreted or compiled information. Nothing in this chapter requires an agency to organize, coordinate, collate, modify, create, interpret or compile records requested. Only a literal or verbatim record need be provided.

G. Law enforcement records. Public records compiled or maintained for law enforcement purposes are open to inspection and disclosure, except that such disclosure shall not be made if disclosure of the records:

1. Could reasonably be expected to interfere with enforcement proceedings;
2. Would deprive a person of a right to a fair trial or impartial adjudication;
3. Could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;
4. Could reasonably be expected to disclose the identity of a confidential source;
5. Would disclose confidential techniques and procedures for law enforcement investigations or prosecutions;
6. Would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law.

H. Security records. Records or information pertaining to a plan, program, or procedures for establishing, maintaining, or restoring security in the City, or to a detailed description or evaluation of systems, facilities, or infrastructure in the City, but only to the extent that the production of the records or information

1. Could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;
2. Would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

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3. Could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare.

I. Identity of complainants.

1. The name, address, telephone number, or other identifying information about complainants in actions to enforce building, environmental, or other City ordinances or regulations and State statutes or regulations are not open to public inspection.

2. This subsection does not prohibit disclosure of the contents of the complaint, so long as the complainant is not identifiable.

3. This subsection does not prohibit the disclosure of the name of the complainant when such disclosure becomes necessary to the fair and just disposition of the charge or complaint in enforcement proceedings. Police investigation compiled by any agency as a part of an investigation of criminal activity, except that such records may be released to other governmental agencies if necessary for the proper administration of justice. Police information practices in regard to criminal justice information shall be governed by provisions AS 12.62.0910 et seq.

J. Harbor and utility customer records. Information in records maintained for City harbor facilities and City utilities regarding a specific identifiable customer, Records held by the City of Whittier or any public utility pertaining to any client, customer, tenant, operator, user or subscriber, the release of which would constitute an unwarranted invasion of privacy of that person or entity.

~~K. Records of engineering, marketing, accounting or other technical or financial data, which, if released, would provide a competitive advantage to any other persons or business engaged in similar or related activities.~~

~~KL. Records containing a trade secret or proprietary information which have been provided on condition that the a trade secret or proprietary information be maintained as confidential, are open to public inspection only in a manner that does not disclose the trade secret or proprietary information~~ Proprietary information which a manufacturer, consultant or provider reasonably expects to be kept privileged or confidential to protect the property interests of persons providing the information or data.

LM. City personnel records, including employment application and examination materials, except for the following:

1. The name and position title of a City employee;
2. Prior positions held by a City employee;
3. Whether a City employee is in the classified or exempt service;
4. The date of appointment and separation of a City employee;
5. The compensation authorized for a City employee.
6. Employment applications for the positions of City Manager and department head.
7. A City employee may examine the employee's own personnel files and may authorize others to examine those files.

~~N. Communications between any agency and the City Attorney which contain legal questions concerning potential, pending or actual litigation. This subsection does not protect from disclosure documents which were public records prior to the~~

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~~commencement of the litigation, and public records which are otherwise subject to disclosure may not be protected from disclosure by mere submission to the Attorney. Any documents marked "Confidential" which are submitted to the agency from the municipal Attorney's office shall only be produced if the City Attorney so authorizes.~~


Section 6. Effective date. This ordinance shall be effective immediately upon adoption.

ENACTED this 16th day of February 2016.



Daniel Blair - Mayor

ATTEST:



Brenda Krol - City Clerk
Interim City Clerk

[SEAL]

Ayes: 6
Nays: 0
Absent: 1
Abstain: 0

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