



## POLICY & PROCEDURE

<b>Subject:</b> COUNCIL E-MAIL				<b>Index:</b> LEGISLATIVE <b>Number:</b> 800-11
<b>Effective Date</b>	<b>Supersedes</b>	<b>Page</b>	<b>Staff Contact</b>	<b>Approved By</b>
12/8/2003	N/A	1 of 4	B. Walton	

### 1.0 **PURPOSE:**

To facilitate e-mail communication between and among Councilmembers, City staff, citizens, and others; to establish procedures for retention of e-mail messages in compliance with the Public Records Disclosure Act, and to assist Councilmembers in complying with the Open Public Meetings Act and other applicable laws.

### 2.0 **ORGANIZATIONS AFFECTED:**

Legislative, Administrative, Legal and Information Services Divisions

### 3.0 **REFERENCES:**

Chapters 40.14, 40.16, 42.17, and 42.30 RCW; WAC 434.12A;  
Policy and Procedure #800-04, Council Correspondence and Agenda

### 4.0 **POLICY:**

4.1 **Public Record.** All Councilmembers' e-mail communications in the City-hosted e-mail system are public records, and must be filed and retained by the City according to legal retention requirements.

4.2 **Public Disclosure.** E-mails that are determined to be a public record are subject to public records disclosure under State law, Chapter 42.17 RCW, unless specifically exempt by statute.

4.3 **Ownership.** All Councilmembers' e-mail records generated in the conduct of City business are the property of the City of Renton and of the public, regardless of the ownership of the computer hardware or software being used.

4.4 **Custody of E-Mail Records.** The Council Liaison will maintain custody of City Council e-mail records relating to City business in compliance with all public records laws. The Council Liaison will process the messages in accordance with Council Policy #800-04.

- 4.5 **Deletion of E-Mail.** Deletion of any public record, including e-mail that has retention value, which has not been made a part of an approved records management system, may be illegal in the State of Washington and subject to criminal penalties. Once an e-mail public record has been made a part of the City’s approved records management system, however, then the electronic version should be deleted after its administrative use has ended in order to free up computer disk space.
- 4.6 **Open Public Meetings Act.** Councilmembers must exercise caution when directly communicating with fellow Councilmembers via e-mail, so as to not violate the Open Public Meetings Act. To avoid a violation of the letter or spirit of the Open Public Meetings Act, any interactive e-mail (i.e. e-mail requiring or inviting two-way communication) between or among Council Committee members or a quorum of members of City Council, must be restricted to matters that are not currently or likely to come before the Committee or Council. A quorum means four Councilmembers or two members of any Committee, including every person participating in the interactive e-mails. Forwarding of informational materials between or among Councilmembers on a “no comment” or “FYI-only” basis is not a violation of the Act.
- 4.7 **Quasi-Judicial Role of Council.** Councilmembers who are serving in a quasi-judicial role (i.e., land use appeals) must not engage in generating or reading substantive e-mails concerning the matter on appeal. For purposes of this provision, a substantive e-mail is one that relates to a matter before the Council while acting in a quasi-judicial role and has any information other than the scheduling or procedures of the hearing. Any substantive e-mail received by a Councilmember must, without review by the Councilmember, be routed to the Council liaison to then be routed to the City Attorney’s office. If the substantive e-mail contains or discusses information that is within the closed record, it may be considered by the quasi-judicial body and presented at the hearing. If the substantive e-mail contains or discusses information that is not within the closed record, the quasi-judicial body may not consider it. In the event the substantive e-mail contains or discusses information that is both within and without the closed record, only those parts of the e-mail that relate to information within the record may be considered by the quasi-judicial body. Other parts must be redacted and may not be considered.
- 4.8 **Citizen Correspondence.** Policy and Procedure #800-04, Council Correspondence and Agenda, applies to e-mail correspondence as well as to other forms of written communications.

## 5.0 **DEFINITIONS:**

- 5.1 **Council “action”:** “Action” under the Open Public Meetings Act means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. “Final action” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance. RCW 42.30.020 (3)

- 5.2 **Electronic Mail (E-Mail) System:** A means of creating and sending messages between computers using a computer network or over a modem.
- 5.3 **E-mail Messages or Communications:** Any communication that is broadcast, created, sent, forwarded, replied to, transmitted, stored, held, copied, downloaded, displayed, viewed, read, or printed by one or several electronic communications systems or services. This includes the contents of the communication, the transactional information, and any attachments associated with such communication.
- 5.4 **Public Records:** 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 any State or local agency regardless of physical form or characteristics. RCW 42.17.020 (36). (Any e-mail regarding City business of which a Councilmember is a party, is a public record.)
- “Writing” as regards public records, 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, 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 or translated. RCW 42.17.020 (42)
- 5.5 **Public Records Disclosure:** Records requests and related process regulated by RCW 42.17, whereby “each agency...shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of this section or other statute.” RCW 42.17.260 (1)
- 5.6 **Records Management & Retention:** The City’s program for records management, facilitated by the City Clerk’s office and based on Records Management Guidelines and General Records Retention Schedule issued under the authority of the Washington State Local Records Committee through the Office of Secretary of State, Division of Archives and Records Management, in compliance with Chapter 40.14 RCW.
- 5.7 **Quasi-Judicial Role:** A quasi-judicial role is one where the Councilmember is performing a function as a member of an appellate body, determining the legal rights, duties, or privileges of a party to a hearing, or other contested matter, rather than matters affecting the public as a whole. An example is an appeal from a land-use ruling.
- 5.8 **Retention Value:** The degree of importance attributed to a document measured by the Records Retention Schedules issued and approved by the Washington State Local Records Committee, Office of the Secretary of State, Division of Archives and Records Management.

5.9 **Transitory Messages:** E-mail communications which are a public record, but which have no state mandated retention value and can be deleted when its administrative use has ended without being printed and filed as part of City records management.

6.0 **PROCEDURES:**

6.1 **Councilmember Responsibility.** Each individual Councilmember is responsible for complying with laws and regulations that govern City e-mail communications. Councilmembers are encouraged to send and receive e-mail messages related to City business through the City Council system. A copy of each such e-mail message sent and received on other systems must be forwarded to the Council Liaison for filing and retention.

6.2 **Council Liaison Responsibility.** The Council Liaison will manage and maintain Council e-mail messages according to law and the City's records retention policies, and will assist Councilmembers with maintenance of their e-mail mailboxes.

6.3 **City Clerk Responsibility.** The City Clerk will provide the Council Liaison with the City's records retention policy.

6.4 **City Attorney Responsibility.** The City Attorney's Office will provide current information and advice to the Council President, the Council Liaison, and individual Councilmembers to assist the Council in complying with all applicable laws and regulations relating to Council e-mail messages.