

Ordinance No. 122969

Council Bill No. 116496

AN ORDINANCE relating to local implementation of the Public Records Act for the State of Washington; providing findings, specific rules and requirements towards making public records available in a timely and orderly manner; and adding new sections to Seattle Municipal Code Chapter 3.104, City Records and Books.

Related Legislation File:

Date Introduced and Referred: <u>4.6.09</u>	To: (committee): <u>Open Government</u>
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>4.27.09</u>	Date Presented to Mayor: <u>4.28.09</u>
Date Signed by Mayor: <u>5.6.09</u>	Date Returned to City Clerk: <u>5.6.09</u>
Published by Title Only <u>✓</u>	Date Vetoed by Mayor:
Published in Full Text <u>5</u>	Date Passed Over Veto:
Date Veto Published:	Date Returned Without Signature:
Date Veto Sustained:	

## The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: Conlon

### Committee Action:

Date	Recommendation	Vote
<u>4.17.09</u>	<u>Pass as Amended</u> <u>EW</u>	<u>4-0</u>

This file is complete and ready for presentation to Full Council.

### Full Council Action:

Date	Decision	Vote
<u>4/27/09</u>	<u>Passed as amended</u> <u>@ LM</u>	<u>8-0</u>
		<u>(SC excused)</u>

Law Department

**ORDINANCE** 122969

AN ORDINANCE relating to local implementation of the Public Records Act for the State of Washington; providing findings, specific rules and requirements towards making public records available in a timely and orderly manner; and adding new sections to Seattle Municipal Code Chapter 3.104, City Records and Books.

WHEREAS, the City is fully committed to a 'culture of compliance' where public records that can be provided to the public are provided in as timely, open, efficient and effective way as possible; and

WHEREAS, the City intends to show that it is consistent with Title 42, Chapter 56 of the Revised Code of Washington (RCW 42.56), concerning the provision of public records, by requiring each department to adopt rules to indicate how they will implement certain requirements of this Act; and

WHEREAS, the City seeks to adopt measures that are consistent with its findings in Resolution 31049 concerning the adoption of plans and policies related to open and participatory government; and

WHEREAS the City has a policy and practice of assisting people with public records requests, producing records in a variety of formats and providing records promptly in response to requests; and,

WHEREAS, RCW 42.56.070 requires all cities and public agencies to maintain and make available a current index of public records with limited exceptions; and

WHEREAS, RCW 42.56.070 also provides that if a city finds that it does not maintain such an index because it would be unduly burdensome or would interfere with city operations, the city must issue and publish a formal Order specifying the reasons why and the extent to which compliance would be unduly burdensome or interfere with city operations; and

WHEREAS, the City is comprised of three distinct branches of government, numerous departments as well as several boards and commissions that independently receive and maintain numerous complex and separate record keeping and filings systems, that may include indexing of records and information; and,

1 WHEREAS, the City produces or receives such a significant amount of records each day that the  
2 development and maintenance of a current index of all City records would be costly and  
3 burdensome and provide little benefit to the public compared to the expense associated  
4 with its creation and maintenance; and

5 WHEREAS, RCW 42.56.070 further provides that in spite of such an Order, any such index that  
6 is maintained by a city must be made available for public inspection and/or copying; and,

7 WHEREAS, by May 1, 2010 Council intends to review and assess how each City department has  
8 implemented the requirements of this bill related to improving access to public records,

9 **NOW, THEREFORE,**

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. A new section 3.104.030 is hereby added to the Seattle Municipal Code, as  
12 follows:

13 3.104.030 Public records disclosure – Department Policy.

14 A. By November 1, 2009, each City Department will, by rulemaking, adopt  
15 administrative procedures for providing access to public records in accordance with the  
16 provisions of RCW 42.56. These procedures will be made available in each department and on  
17 their respective websites. Departments may work together to adopt similar or identical rules to  
18 comply with this provision. Any such rulemaking will include, but not be limited to, the  
19 following provisions:

- 20 1. A process to respond promptly to all records requests as required by RCW 42.56.520;
- 21 2. Assigning a central point of contact to receive requests;
- 22 3. A system that informs a requesting party of the amount of time needed to respond to
- 23 the request, a reasonable estimate of when responsive records would be available and, if
- 24 applicable, the reasons why a requested record was not made available;
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1           4. To the extent deemed practicable by the department and without excessive interference  
2 with other essential departmental functions, procedures for (a) an internet-based approach that  
3 allows for a single step on each departmental website to submit a request for public records; (b)  
4 areas for the public to access frequently requested records, and (c) for records to be made  
5 available to requesters who request documents in electronic formats;

6           5. How an appeal of a denial of a records request is submitted;

7           6. Tracking of all staff time and expenditures related to responses to records requests;

8           7. A list of applicable exemptions;

9           8. Charges for providing copies of responsive documents or records that includes waiver  
10 or reduced charges for small requests and reasonable charges that reflect actual copying costs for  
11 providing documents in an electronic format;

12           9. The hours and dates when public records are available for inspection and reproduction;

13           10. Identifying the records retention policies that apply and providing access to applicable  
14 record retention policies; and

15           11. Adoption of a form for submitting records requests.

16           B. Following the adoption of any such rule, each Department shall submit a written report  
17 to the Council within 30 days of its adoption and provide an overview of how the rule complies  
18 with requirements for access to public records under RCW 42.56. Departments with substantially  
19 similar rules may submit a unified report. The rule shall also be filed with the City Clerk's office  
20 pursuant to Seattle Municipal Code 3.02.060.

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22           Section 2. A new section 3.104.040 is hereby added to the Seattle Municipal Code, as  
23 follows:

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25           3.104.040 Public records index – Findings.  
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1           A. The City of Seattle is comprised of three distinct branches of government, numerous  
2 departments as well as several boards and commissions that independently receive and maintain  
3 numerous complex and separate record keeping and filings systems.

4           B. The City produces or receives such a significant amount of records each day that the  
5 development and maintenance of a current index of all City records would be costly and  
6 burdensome and provide little benefit to the public compared to the expense associated with its  
7 creation and maintenance.

8  
9           Section 3. A new section 3.104.050 is hereby added to the Seattle Municipal Code, as  
10 follows:


11           3.104.050 Public Records Index - Order – Maintenance not required.

12           A. Pursuant to RCW 42.56.070, the City of Seattle (City) finds that it is not required to  
13 maintain a City wide current index of public records because the requirement is unduly  
14 burdensome and would interfere with City operations and such a list is nearly impossible to  
15 create and/or maintain.

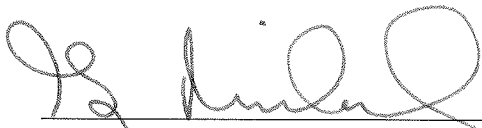
16           B. Pursuant to RCW 42.56.070, the City shall make available all public records and any  
17 indexes created for internal use upon request by any citizen to the extent not exempt from  
18 disclosure pursuant to State law or any other applicable law. This includes providing access to  
19 applicable records retention schedules for all City departments in accordance with new section  
20 3.104.030.

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22           Section 4. This ordinance shall take effect and be in force thirty (30) days from and after  
23 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
24 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

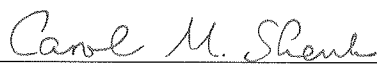
1 Passed by the City Council the 27<sup>th</sup> day of April, 2009, and  
2 signed by me in open session in authentication of its passage this  
3 27<sup>th</sup> day of April, 2009.

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President \_\_\_\_\_ of the City Council

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10 Approved by me this 6<sup>th</sup> day of May, 2009.

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13 Gregory J. Nickels, Mayor

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15 Filed by me this 6<sup>th</sup> day of May, 2009.

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19 Acting City Clerk

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28 (Seal)

## **FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Legislative	Michael Jenkins/ 615-1674	

**Legislation Title:** AN ORDINANCE relating to local implementation of the Public Records Act for the State of Washington; providing findings, specific rules and requirements towards making public records available in a timely and orderly manner; and adding new sections to Seattle Municipal Code Chapter 3.104, City Records and Books.

**Summary of the Legislation:** This Council-generated legislation amends Seattle Municipal Code section 3.104 to require City departments to adopt rules illustrating how they comply with Revised Code of Washington (RCW) Section 42.56, the Public Records Act. The legislation also includes an Order exempting the City from developing and maintaining a current index of all records in their possession under RCW 42.56.070. This code establishes the requirement as well as the ability for jurisdictions to exempt themselves from the requirement if it is determined that compliance would be unduly burdensome or would interfere with normal operations. This legislation would fulfill this requirement.

- **Background:**

This legislation is designed to implement findings from the May 19, 2008 Washington State Auditor's Office report 'Open Public Records Practices at 30 Government Entities' and Attorney General's model rules of implementation of RCW 42.56.

*Please check one of the following:*

**X    This legislation does not have any financial implications.**

Without adopting the current index exemption in RCW 42.56.070, there would be a significant financial implication on the City. Compliance with the indexing requirement would require staff resources to prepare such an index, along with maintaining and updating the index while making such an index available to the public.



**ORDINANCE \_\_\_\_\_**

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WHEREAS, the City is fully committed to a 'culture of compliance' where public records that can be provided to the public are provided in as timely, open, efficient and effective way as possible; and

WHEREAS, the City intends to show that it is consistent with RCW 42.56, concerning the provision of public records, by requiring each department to adopt rules to indicate how they will implement certain requirements of this Act; and

WHEREAS, the City seeks to adopt measures that are consistent with its findings in Resolution 31049 concerning the adoption of plans and policies related to open and participatory government; and

WHEREAS the City has a policy and practice of assisting people with public records requirements, producing records in a variety of formats and providing records promptly in response to requests; and,

WHEREAS, Title 42, Chapter 56, of the Revised Code of Washington (RCW 42.56) requires all cities and public agencies to maintain and make available a current index of public records with limited exceptions; and

WHEREAS, RCW 42.56.070 also provides that if a city finds that it does not maintain such an index because it would be unduly burdensome or would interfere with city operations, the city must issue and publish a formal Order specifying the reasons why and the extent to which compliance would be unduly burdensome or interfere with city operations; and

WHEREAS, the City is comprised of three distinct branches of government, numerous departments as well as several boards and commissions that independently receive and maintain numerous complex and separate record keeping and filings systems, that may include indexing of records and information; and,



1 WHEREAS, the City produces or receives such a significant amount of records each day that the  
2 development and maintenance of a current index of all City records would be costly and  
3 burdensome and provide little benefit to the public compared to the expense associated  
4 with its creation and maintenance; and

5 WHEREAS, RCW 42.56.070 further provides that in spite of such an Order, any such index that  
6 is maintained by a city must be made available for public inspection and/or copying,

7 **NOW, THEREFORE,**

8 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

9 Section 1. A new section 3.104.030 is hereby added to the Seattle Municipal Code, as  
10 follows:

11 3.104.030 Public records disclosure – Department Policy.

12 A. By November 1, 2009, each City Department will, by rulemaking, adopt  
13 administrative procedures for providing access to public records in accordance with the  
14 provisions of RCW 42.56. Departments may work together to adopt similar or identical rules to  
15 comply with this provision. Any such rulemaking will include, but not be limited to, the  
16 following provisions:

- 17 1. A process to respond promptly to all records requests as required by RCW 42.56.520;
- 18 2. Assigning a central point of contact to receive requests;
- 19 3. A system that informs a requesting party of the amount of time needed to respond to  
20 the request, a reasonable estimate of when responsive records would be available and, if  
21 applicable, the reasons why a requested record was not made available;
- 22 4. To the extent practicable, an internet-based approach that allows for (a) a single step on  
23 each website to access the process to submit a request for public records; (b) the submittal for  
24 frequently-requested records; and (c) for those records to be made available online to requesters  
25 and for records to be provided in any other electronic format;



- 1           5. How an appeal of a denial of a records request is submitted;
- 2           6. Tracking of all staff time and expenditures related to responses to records requests;
- 3           7. A list of applicable exemptions;
- 4           8. Charges for providing copies of responsive documents or records that includes waiver
- 5 or reduced charges for small requests;
- 6           9. The hours and dates when public records are available for inspection and reproduction;
- 7           10. Providing access to applicable records retention policies and identify the records
- 8 retention policies that apply ; and
- 9           11. Adoption of a form for submitting records requests.

10           B. Following the adoption of any such rule, each Department shall submit a written report  
11 to the Council within 30 days of its adoption and provide an overview of how the rule complies  
12 with requirements for access to public records under RCW 42.56. Departments with substantially  
13 similar rules may submit a unified report. The rule shall also be filed with the City Clerk's office  
14 pursuant to Seattle Municipal Code 3.02.060.

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16           Section 2. A new section 3.104.040 is hereby added to the Seattle Municipal Code, as  
17 follows:

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19           3.104.040 Public records index – Findings.

20           A. The City of Seattle is comprised of three distinct branches of government, numerous  
21 departments as well as several boards and commissions that independently receive and maintain  
22 numerous complex and separate record keeping and filings systems.

23           B. The City produces or receives such a significant amount of records each day that the  
24 development and maintenance of a current index of all City records would be costly and  
25 burdensome and provide little benefit to the public compared to the expense associated with its  
26 creation and maintenance.

Section 3. A new section 3.104.050 is hereby added to the Seattle Municipal Code, as follows:

3.104.050 Public Records Index - Order – Maintenance not required.

A. Pursuant to RCW 42.56.070, the City of Seattle (City) finds that it is not required to maintain a City wide current index of public records because the requirement is unduly burdensome and would interfere with City operations and such a list is nearly impossible to create and/or maintain.

B. Pursuant to RCW 42.56.070, the City shall make available all public records and any indexes created for internal use upon request by any citizen to the extent not exempt from disclosure pursuant to State law or any other applicable law. This includes providing access to applicable records retention schedules for all City departments in accordance with new section 3.104.030.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2009, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2009.

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President \_\_\_\_\_ of the City Council



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4 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2009.  
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8 Gregory J. Nickels, Mayor

9 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2009.  
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12 \_\_\_\_\_  
13 City Clerk

14 (Seal)  
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**ORDINANCE** \_\_\_\_\_

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WHEREAS, the City seeks to adopt measures that are consistent with its findings in Resolution 31049 concerning the adoption of plans and policies related to open and participatory government; and

WHEREAS the City has a policy and practice of assisting people with public records requirements, producing records in a variety of formats and providing records promptly in response to requests; and,

WHEREAS, Title 42, Chapter 56, of the Revised Code of Washington (RCW 42.56) requires all cities and public agencies to maintain and make available a current index of public records with limited exceptions; and

WHEREAS, RCW 42.56.070 also provides that if a city finds that it does not maintain such an index because it would be unduly burdensome or would interfere with city operations, the city must issue and publish a formal Order specifying the reasons why and the extent to which compliance would be unduly burdensome or interfere with city operations; and

WHEREAS, the City is comprised of three distinct branches of government, numerous departments as well as several boards and commissions that independently receive and maintain numerous complex and separate record keeping and filings systems, that may include indexing of records and information; and,



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5 WHEREAS, RCW 42.56.070 further provides that in spite of such an Order, any such index that  
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9. The hours and dates when public records are available for inspection and reproduction;
10. Applicable records retention policies; and
11. Adoption of a form for submitting records requests.

B. Following the adoption of any such rule, each Department shall submit a written report to the Council within 30 days of its adoption and provide an overview of how the rule complies with requirements for access to public records under RCW 42.56. Departments with substantially similar rules may submit a unified report. The rule shall also be filed with the City Clerk's office pursuant to Seattle Municipal Code 3.02.060.

Section 2. A new section 3.104.040 is hereby added to the Seattle Municipal Code, as follows:

3.104.040 Public records index – Findings.

A. The City of Seattle is comprised of three distinct branches of government, numerous departments as well as several boards and commissions that independently receive and maintain numerous complex and separate record keeping and filings systems.

B. The City produces or receives such a significant amount of records each day that the development and maintenance of a current index of all City records would be costly and burdensome and provide little benefit to the public compared to the expense associated with its creation and maintenance.



Section 3. A new section 3.104.050 is hereby added to the Seattle Municipal Code, as follows:

3.104.050 Public Records Index - Order – Maintenance not required.

A. Pursuant to RCW 42.56.070, the City of Seattle (City) finds that it is not required to maintain a City wide current index of public records because the requirement is unduly burdensome and would interfere with City operations and such a list is nearly impossible to create and/or maintain.

B. Pursuant to RCW 42.56.070, the City shall make available all public records and any indexes created for internal use upon request by any citizen to the extent not exempt from disclosure pursuant to State law or any other applicable law.

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Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2009, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council



1 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2009.

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3 \_\_\_\_\_  
4 Gregory J. Nickels, Mayor

5 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2009.

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7 \_\_\_\_\_  
8 City Clerk

9 (Seal)



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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238572  
CITY OF SEATTLE, CLERKS OFFICE

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

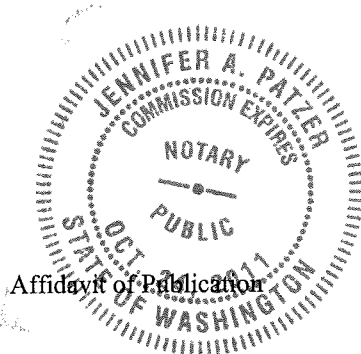
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122969 ORDINANCE

was published on

05/11/09

The amount of the fee charged for the foregoing publication is the sum of \$ 283.00, which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on  
05/11/09  
Notary public for the State of Washington,  
residing in Seattle

# City of Seattle

## ORDINANCE 122969

AN ORDINANCE relating to local implementation of the Public Records Act for the State of Washington; providing findings, specific rules and requirements towards making public records available in a timely and orderly manner; and adding new sections to Seattle Municipal Code Chapter 3.104, City Records and Books.

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WHEREAS, RCW 42.56.070 further provides that in spite of such an Order, any such index that is maintained by a city must be made available for public inspection and/or copying; and,

WHEREAS, by May 1, 2010 Council intends to review and assess how each City department has implemented the requirements of this bill related to improving access to public records,

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1. A process to respond promptly to all records requests as required by RCW 42.56.520;

2. Assigning a central point of contact to receive requests;

3. A system that informs a requesting party of the amount of time needed to respond to the request, a reasonable estimate of when responsive records would be available and, if applicable, the reasons why a requested record was not made available;

## State of Washington, King County

4. To the extent deemed practicable by the department and without excessive interference with other essential departmental functions, procedures for (a) an internet-based approach that allows for a single stop on each departmental website to submit a request for public records; (b) areas for the public to access frequently requested records, and (c) for records to be made available to requesters who request documents in electronic formats;

5. How an appeal of a denial of a records request is submitted;

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A. The City of Seattle is comprised of three distinct branches of government, numerous departments as well as several boards and commissions that independently receive and maintain numerous complex and separate record keeping and filings systems.

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Section 3. A new section 3.104.050 is hereby added to the Seattle Municipal Code, as follows:

3.104.050 Public Records Index - Order - Maintenance not required.

A. Pursuant to RCW 42.56.070, the City of Seattle (City) finds that it is not required to maintain a City wide current index of public records because the requirement is unduly burdensome and would interfere with City operations and such a list is nearly impossible to create and/or maintain.

B. Pursuant to RCW 42.56.070, the City shall make available all public records and any indexes created for internal use upon request by any citizen to the extent not exempt from disclosure pursuant to State law or any other applicable law. This includes providing access to applicable records retention schedules for all City departments in accordance with new section 3.104.030.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 27th day of April, 2009, and signed by me in open session in authentication of its passage this 27th day of April, 2009.

Richard Conlin

President of the City Council

Approved by me this 6th day of May, 2009.

Gregory J. Nickels, Mayor

Filed by me this 6th day of May, 2009.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

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