

| CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to: |
|--------------------|--------------|----------|-----------------------------------------------------------------------|-------------|--------------|
| Originator: | GR <i>GR</i> | 11/16/05 | <p>RECEIVED</p> <p>NOV 29 2005</p> <p>WHATCOM COUNTY</p> <p>CLERK</p> | 12/06/05 | Council |
| Division Head: | | | | | |
| Dept. Head: | | | | | |
| Prosecutor: | <i>RSW</i> | 11/14/05 | | | |
| Purchasing/Budget: | <i>JAD</i> | 11/29/05 | | | |
| Executive: | <i>PK</i> | 11-29-05 | | | |

TITLE OF DOCUMENT:

Resolution establishing an official policy for meeting the public records requirement of RCW 42.17.260 (3)

ATTACHMENTS:

Resolution, memorandum, RCW 42.17.260

SEPA review required? () Yes (x) NO
 SEPA review completed? () Yes (x) NO

Should Clerk schedule a hearing? () Yes (x) NO
 Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

COMMITTEE ACTION:

COUNCIL ACTION:

12/6/2005: Approved 7-0, Res. #2005-078

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number:

Res. #2005-078

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

SPONSORED BY: Consent
PROPOSED BY: Administration
INTRODUCTION DATE: December 6, 2005

RESOLUTION NO. 2005-078

ESTABLISHING AN OFFICIAL POLICY FOR MEETING THE
PUBLIC RECORDS REQUIREMENT OF RCW 42.17.260 (3)

WHEREAS, Whatcom County government is comprised of three governmental branches and numerous boards, departments, divisions, agencies, offices, and commissions; and

WHEREAS, each of these entities maintains its own records per established county policies and procedures; and

WHEREAS, the county's records are voluminous, diverse, complex, and stored in multiple locations, in multiple incompatible data bases; and

WHEREAS, it would be unduly burdensome and costly to the taxpayers of Whatcom County for the county to develop a single index of all county records identified in RCW 42.17.260 (3).

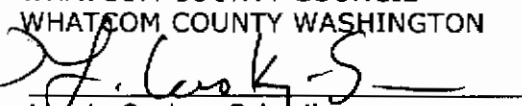
NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that no Whatcom County official, branch, agency, board, department, division, office, commission, or other county government-related entity is required to maintain a combined index of public records conforming to the requirements of RCW 42.17.260 (3).

BE IT FURTHER RESOLVED that any individual index maintained by a Whatcom County official, branch, agency, board, department, division, office, commission, or other county government-related entity shall be made available for public inspection and copying unless exempt from disclosure or made confidential by law.


APPROVED this 6th day of December, 2005



WHATCOM COUNTY COUNCIL
WHATCOM COUNTY WASHINGTON


Laurie Caskey-Schreiber,
Council Chair

APPROVED as to form:


Civil Deputy P.D.s. Atty.

RCW 42.17.260

Documents and indexes to be made public. (Effective until July 1, 2006.)

(1) Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, RCW 42.17.310, 42.17.315, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by RCW 42.17.310 and 42.17.315, an agency shall delete identifying details in a manner consistent with RCW 42.17.310 and 42.17.315 when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.

(2) For informational purposes, each agency shall publish and maintain a current list containing every law, other than those listed in this chapter, that the agency believes exempts or prohibits disclosure of specific information or records of the agency. An agency's failure to list an exemption shall not affect the efficacy of any exemption.

(3) Each local agency shall maintain and make available for public inspection and copying a current index providing identifying information as to the following records issued, adopted, or promulgated after January 1, 1973:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;

(c) Administrative staff manuals and instructions to staff that affect a member of the public;

(d) Planning policies and goals, and interim and final planning decisions;

(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and

(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(4) A local agency need not maintain such an index, if to do so would be unduly burdensome, but it shall in that event:

(a) Issue and publish a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations; and

(b) Make available for public inspection and copying all indexes maintained for agency use.

(5) Each state agency shall, by rule, establish and implement a system of indexing for the identification and location of the following records:

(a) All records issued before July 1, 1990, for which the agency has maintained an index;

(b) Final orders entered after June 30, 1990, that are issued in adjudicative proceedings as defined in RCW 34.05.010 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(c) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and that contain an analysis or decision of substantial importance to the agency in carrying out its duties;

(d) Interpretive statements as defined in RCW 34.05.010 that were entered after June 30, 1990; and

(e) Policy statements as defined in RCW 34.05.010 that were entered after June 30, 1990.

Rules establishing systems of indexing shall include, but not be limited to, requirements for the form and content of the index, its location and availability to the public, and the schedule for revising or updating the index. State agencies that have maintained indexes for records issued before July 1, 1990, shall continue to make such indexes available for public inspection and copying. Information in such indexes may be incorporated into indexes prepared pursuant to this subsection. State agencies may satisfy the requirements of this subsection by making available to the public indexes prepared by other parties but actually used by the agency in its operations. State agencies shall make indexes available for public inspection and copying. State agencies may charge a fee to cover the actual costs of providing individual mailed copies of indexes.

(6) A public record may be relied on, used, or cited as precedent by an agency against a party other than an agency and it may be invoked by the agency for any other purpose only if --

(a) It has been indexed in an index available to the public; or

(b) Parties affected have timely notice (actual or constructive) of the terms thereof.

(7) Each agency shall establish, maintain, and make available for public inspection and copying a statement of the actual per page cost or other costs, if any, that it charges for providing photocopies of public records and a statement of the factors and manner used to determine the actual per page cost or other costs, if any.

(a) In determining the actual per page cost for providing photocopies of public records, an agency may include all costs directly incident to copying such public records including the actual cost of the paper and the per page cost for use of agency copying equipment. In determining other actual costs for providing photocopies of public records, an agency may include all costs directly incident to shipping such public records, including the cost of postage or delivery charges and the cost of any container or envelope used.

(b) In determining the actual per page cost or other costs for providing copies of public records, an agency may not include staff salaries, benefits, or other general administrative or overhead charges, unless those costs are directly related to the actual cost of copying the public records. Staff time to copy and mail the requested public records may be included in an agency's costs.

(8) An agency need not calculate the actual per page cost or other costs it charges for providing photocopies of public records if to do so would be unduly burdensome, but in that event: The agency may not charge in excess of fifteen cents per page for photocopies of public records or for the use of agency equipment to photocopy public records and the actual postage or delivery charge

and the cost of any container or envelope used to mail the public records to the requestor.

(9) This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the Administrative Procedure Act.

[1997 c 409 § 601. Prior: 1995 c 397 § 11; 1995 c 341 § 1; 1992 c 139 § 3; 1989 c 175 § 36; 1987 c 403 § 3; 1975 1st ex.s. c 294 § 14; 1973 c 1 § 26 (Initiative Measure No. 276, approved November 7, 1972).]