

City of Tacoma

Charter Review Committee Agenda

Tacoma Municipal Building North, 747 Market Street, Room 248
www.cityoftacoma.com/charterreview

January 13, 2014 – 6:00 p.m.

Call to Order

Roll Call

Introductions

1. Call on Mayor Strickland – Introductory Remarks
2. Call on City Manager T.C. Broadnax
 - a. Introduction of Jeanne Harris – Charter Review Committee Point of Contact
3. Call on City Attorney Elizabeth Pauli
4. Call on Representative Laurie Jinkins – Chair 2004 Charter Review Committee (6:45 p.m. – 7:00 p.m.)
5. Open Public Meetings Act, E-mail Retention, Public Disclosure, and the Ethics Code - Martha Lantz
6. Communication Plan – Gwen Schuler
7. Introduction of Committee Members - Briefly describe your background and any specific interests, issues or concerns you would like the Committee to review with regard to the City Charter
8. Chair Bill Baarsma – Charter Review History
9. Ground Rules and Procedures for Operations
10. Election of Vice Chair and Secretary Discussion
11. Future Meeting Dates
 - a. Should we meet around the community?
 - b. Should we have meetings specifically set aside for public comment?
 - c. How often should we meet in order to complete recommendations and submit the final report by May 6, 2014?
12. Charter Review Website
13. Other Business/Unfinished Business
14. Public Comment
15. Committee Comments
16. Adjournment

The next meeting has been scheduled for Wednesday, January 22, 2014 at 6:00 p.m. in Room 248, 747 Market Street.



Room 248 is accessible to persons with disabilities. Persons requiring special accommodations should contact the City Clerk's Office, (253) 591-5505. (TTY) or speech to speech users please dial 711 to connect to Washington Relay Services.

**PUBLIC MEETINGS
PUBLIC RECORDS
ETHICS**

CITY OF TACOMA
CHARTER REVIEW
COMMITTEE

PUBLIC MEETINGS

- State law, RCW 42.30
- Applies to Committee
- All actions taken openly
- All deliberations conducted openly, unless exemption/exception
- All meetings public

PUBLIC MEETINGS

- It is a meeting when a quorum present and action occurs
- Action is any official business such as
 - Discussion, deliberation, receipt of public testimony, consideration, reviews, evaluations
- Closed sessions limited

CLOSED SESSIONS

- Authorized in certain specific and limited circumstances including for:
 - Discussion with legal council regarding litigation or potential litigation against the Committee (or the City if the City is alleged to be responsible for actions of Committee)
 - Other types of closed sessions but unlikely to apply to Committee's role as an advisory body

MEETING REQUIREMENTS

- Notice to public
- Published agenda
- Public permitted to attend without conditions
 - No requirement that public be able to speak or participate
- Minutes taken
- Topics generally limited to published agenda

MEETING TIPS

- E-mail exchanges can be meetings
 - Entire Committee/quorum on e-mails
 - “Reply All”
 - “Serial” e-mails, forwarded from member to member
- Committee member conversations in shared environment can be meetings
 - Blogs, forums, social media
- Meetings can be by telephone, but need proper notice and opportunity for public to participate
 - Speaker phone at designated location
 - Individual members may be able to appear by phone

VIOLETION OF OPEN MEETING LAWS

- Individual member liability
 - \$100 penalty for knowing violation
- Committee action null and void
- Bad Press
- Public Distrust

PUBLIC RECORDS

- State law RCW 42.56
- Applies to Committee and individual members
- Creates duty to retain, search and produce public records

PUBLIC RECORDS

- “RECORD”
 - Information or communication relating to conduct of government, performance of government function
 - Owned, used or retained by Committee or Committee members
 - Paper, electronic, audio, photos, videos, social media etc.

PUBLIC RIGHT TO RECORDS

- UPON REQUEST BY PUBLIC
 - All records to be available for inspection and copying
 - Exemptions to production, but narrow
 - Requestor cannot be limited or asked reason for request

RETAIN RECORDS

- **RETAIN IF REQUIRED**
 - Retention periods set by state and City
 - Elected officials and governing body communications have archival value
 - Some records have no retention period
 - “Owner” of record generally keeps
- **MANAGE RECORDS**
 - Discard when retention period ends
 - Must be searched and produced if exist, unless exemption

SEARCH AND PRODUCE RECORDS

- If records requested
 - Timely search all potential locations
 - Personal computers, personal cell phones, smart phones, lap tops, tablets, paper files
 - Produce all responsive records to staff
 - May be exemptions, staff to determine, so produce all
- Let staff know promptly if receive communication that could be records request

RECORDS TIPS

- **BE AWARE WHEN ACTING AS
Committee MEMBER**
 - Any blogging, social media, posting, writing as Committee member is public record
- **KEEP ALL COMMITTEE RELATED
RECORDS IN ONE LOCATION**
 - Separate e-mail account/separate folders for Committee business
 - Personal contact information not exempt if used for Committee business or intermingled

PUBLIC RECORDS VIOLATIONS

- City held responsible
 - Penalties for not searching, not producing, late producing etc.
- Failure to conduct adequate search could cause a court to order search
 - Including of any location where records may be, to include personal or home or business locations and devices
- Good faith effort to comply is defense to penalties

ETHICS

- City of Tacoma Code of Ethics, TMC 1.46
- Applies to Committee members
- Purposes
 - Avoid conflicts of interest and undue influence
 - Prevent use of City position and powers for personal gain
 - Avoid improprieties and appearance of improprieties

ETHICS

- Prohibited Conduct Includes:
 - Disclosure of confidential information
 - Use of City position for personal benefit or gain or to benefit another
 - Acceptance of gifts
 - Ban on receipt of all gifts of any amount
 - Nominal promotional items and awards in recognition of service are allowed
 - Financial conflicts of interest – member of Committee entering into a contract with City

ETHICS VIOLATIONS

- Committee members are “Covered Officials” under jurisdiction of Board of Ethics
- Complaint
 - Review by Board of Ethics
 - Possible investigation/hearing
 - Order of Board of Ethics
- Sanctions for violation found by Board
 - Can include removal from Committee

RESOURCES

- Open Meeting Act RCW 42.30

<http://apps.leg.wa.gov/rcw/default.aspx?cite=42.30&full=true#>

- Public Records Act RCW 42.56

<http://apps.leg.wa.gov/rcw/default.aspx?cite=42.56&full=true#>

- City Code of Ethics TMC 1.46

Chapter 42.56 RCW PUBLIC RECORDS ACT

RCW Sections

- 42.56.001 Finding, purpose.
- 42.56.010 Definitions.
- 42.56.020 Short title.
- 42.56.030 Construction.
- 42.56.040 Duty to publish procedures.
- 42.56.050 Invasion of privacy, when.
- 42.56.060 Disclaimer of public liability.
- 42.56.070 Documents and indexes to be made public.
- 42.56.080 Facilities for copying -- Availability of public records.
- 42.56.090 Times for inspection and copying -- Posting on web site.
- 42.56.100 Protection of public records -- Public access.
- 42.56.110 Destruction of information relating to employee misconduct.
- 42.56.120 Charges for copying.
- 42.56.130 Other provisions not superseded.
- 42.56.140 Public records exemptions accountability committee.
- 42.56.210 Certain personal and other records exempt.
- 42.56.230 Personal information (*as amended by 2013 c 220*).
- 42.56.230 Personal information (*as amended by 2013 c 336*).
- 42.56.240 Investigative, law enforcement, and crime victims.
- 42.56.250 Employment and licensing.
- 42.56.260 Real estate appraisals.
- 42.56.270 Financial, commercial, and proprietary information.
- 42.56.280 Preliminary drafts, notes, recommendations, intra-agency memorandums.
- 42.56.290 Agency party to controversy.
- 42.56.300 Archaeological sites.
- 42.56.310 Library records.
- 42.56.320 Educational information.
- 42.56.330 Public utilities and transportation.
- 42.56.335 Public utility districts and municipally owned electrical utilities -- Restrictions on access by law enforcement authorities.
- 42.56.340 Timeshare, condominium, etc. owner lists.
- 42.56.350 Health professionals.
- 42.56.360 Health care.

- 42.56.370 Client records of domestic violence programs, or community sexual assault programs or services for underserved populations.
- 42.56.380 Agriculture and livestock.
- 42.56.390 Emergency or transitional housing.
- 42.56.400 Insurance and financial institutions.
- 42.56.403 Property and casualty insurance statements of actuarial opinion.
- 42.56.410 Employment security department records, certain purposes.
- 42.56.420 Security.
- 42.56.430 Fish and wildlife.
- 42.56.440 Veterans' discharge papers -- Exceptions.
- 42.56.450 Check cashers and sellers licensing applications.
- 42.56.460 Fireworks.
- 42.56.470 Correctional industries workers.
- 42.56.480 Inactive programs.
- 42.56.510 Duty to disclose or withhold information -- Otherwise provided.
- 42.56.520 Prompt responses required.
- 42.56.530 Review of agency denial.
- 42.56.540 Court protection of public records.
- 42.56.550 Judicial review of agency actions.
- 42.56.560 Application of RCW 42.56.550.
- 42.56.565 Inspection or copying by persons serving criminal sentences -- Injunction.
- 42.56.570 Explanatory pamphlet.
- 42.56.580 Public records officers.
- 42.56.590 Personal information -- Notice of security breaches.
- 42.56.600 Mediation communications.
- 42.56.610 Certain information from dairies and feedlots limited -- Rules.
- 42.56.900 Purpose -- 2005 c 274 §§ 402-429.
- 42.56.901 Part headings not law -- 2005 c 274.
- 42.56.902 Effective date -- 2005 c 274.
- 42.56.903 Effective date -- 2006 c 209.
- 42.56.904 Intent -- 2007 c 391.

Notes:

Criminal records privacy: Chapter 10.97 RCW.

42.56.001

Finding, purpose.

The legislature finds that *chapter

42.17 RCW contains laws relating to several discrete subjects. Therefore, the purpose of chapter 274, Laws of 2005 is to recodify some of those laws and create a new chapter in the Revised Code of Washington that contains laws pertaining to public records.

[2005 c 274 § 1.]

Notes:

***Reviser's note:** Provisions in chapter 42.17 RCW relating to public records were recodified in chapter 42.56 RCW by 2005 c 274, effective July 1, 2006. Provisions in chapter 42.17 RCW relating to campaign disclosure and contribution were recodified in chapter 42.17A RCW by 2010 c 204, effective January 1, 2012.

42.56.010

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, "person in interest" means and includes the parent or duly appointed legal representative.

(3) "Public record" includes 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. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW

40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

(4) "Writing" 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.

[2010 c 204 § 1005; 2007 c 197 § 1; 2005 c 274 § 101.]

42.56.020
Short title.

This chapter may be known and cited as the public records act.

[2005 c 274 § 102.]

42.56.030
Construction.

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected. In the event of conflict between the provisions of this chapter and any other act, the provisions of this chapter shall govern.

[2007 c 197 § 2; 2005 c 274 § 283; 1992 c 139 § 2. Formerly RCW

42.17.251.]

42.56.040
Duty to publish procedures.

(1) Each state agency shall separately state and currently publish in the Washington Administrative Code and each local agency shall prominently display and make available for inspection and copying at the central office of such local agency, for guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain copies of agency decisions;

(b) Statements of the general course and method by which its operations are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(e) Each amendment or revision to, or repeal of any of the foregoing.

(2) Except to the extent that he or she has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published or displayed and not so published or displayed.

[2012 c 117 § 127; 1973 c 1 § 25 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW

42.17.250.]

42.56.050

Invasion of privacy, when.

A person's "right to privacy," "right of privacy," "privacy," or "personal privacy," as these terms are used in this chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. The provisions of this chapter dealing with the right to privacy in certain public records do not create any right of privacy beyond those rights that are specified in this chapter as express exemptions from the public's right to inspect, examine, or copy public records.

[1987 c 403 § 2. Formerly RCW

42.17.255.]

Notes:

Intent -- 1987 c 403: "The legislature intends to restore the law relating to the release of public records largely to that which existed prior to the Washington Supreme Court decision in "*In Re Rosier*," 105 Wn.2d 606 (1986). The intent of this legislation is to make clear that: (1) Absent statutory provisions to the contrary, agencies possessing records should in responding to requests for disclosure not make any distinctions in releasing or not releasing records based upon the identity of the person or agency which requested the records, and (2) agencies having public records should rely only upon statutory exemptions or prohibitions for refusal to provide public records. Further, to avoid unnecessary confusion, "privacy" as used in RCW 42.17.255 is intended to have the same meaning as the definition given that word by the Supreme Court in "*Hearst v. Hoppe*," 90 Wn.2d 123, 135 (1978)." [1987 c 403 § 1.]

Severability -- 1987 c 403: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 403 § 7.]

42.56.060

Disclaimer of public liability.

No public agency, public official, public employee, or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon the release of a public record if the public agency, public official, public employee, or custodian acted in good faith in attempting to comply with the provisions of this chapter.

[1992 c 139 § 11. Formerly RCW

42.17.258]

42.56.070

Documents and indexes to be made public.

(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, this chapter, 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 this chapter, an agency shall delete identifying details in a manner consistent with this chapter 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.

[2005 c 274 § 284; 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). Formerly RCW 42.17.260.]

Notes:

***Reviser's note:** Subsection (6) of this section was renumbered as subsection (7) by 1992 c 139 § 3; and subsection (7) was subsequently renumbered as subsection (9) by 1995 c 341 § 1.

Part headings -- Severability -- 1997 c 409: See notes following RCW 43.22.051.

Effective date -- 1989 c 175: See note following RCW 34.05.010.

Intent -- Severability -- 1987 c 403: See notes following RCW 42.56.050.

Exemption for registered trade names: RCW 19.80.065.

42.56.080

Facilities for copying — Availability of public records.

Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person including, if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. Agencies shall not deny a request for identifiable public records solely on the basis that the request is overbroad. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW

42.56.070(9) or other statute which exempts or prohibits disclosure of specific information or records to certain persons. Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency. Agencies shall honor requests received by mail for identifiable public records unless exempted by provisions of this chapter.

[2005 c 483 § 1; 2005 c 274 § 285; 1987 c 403 § 4; 1975 1st ex.s. c 294 § 15; 1973 c 1 § 27 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.270.]

Notes:

Reviser's note: This section was amended by 2005 c 274 § 285 and by 2005 c 483 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent -- Severability -- 1987 c 403: See notes following RCW 42.56.050.

42.56.090

Times for inspection and copying — Posting on web site.

Public records shall be available for inspection and copying during the customary office hours of the agency, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives for a minimum of thirty hours per week, except weeks that include state legal holidays, unless the person making the request and the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives or its representative agree on a different time. Customary business hours must be posted on the agency or office's web site and made known by other means designed to provide the public with notice.

[2009 c 428 § 2; 1995 c 397 § 12; 1973 c 1 § 28 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW

42.17.280.]

42.56.100

Protection of public records — Public access.

Agencies shall adopt and enforce reasonable rules and regulations, and the office of the secretary of the senate and the office of the chief clerk of the house of representatives shall adopt reasonable procedures allowing for the time, resource, and personnel constraints associated with legislative sessions, consonant with the intent of this chapter to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with other essential functions of the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives. Such rules and regulations shall provide for the fullest assistance to inquirers and the most timely possible action on requests for information. Nothing in this section shall relieve agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives from honoring requests received by mail for copies of identifiable public records.

If a public record request is made at a time when such record exists but is scheduled for destruction in the near future, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives shall retain possession of the record, and may not destroy or erase the record until the request is resolved.

[1995 c 397 § 13; 1992 c 139 § 4; 1975 1st ex.s. c 294 § 16; 1973 c 1 § 29 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW

42.17.290.]

42.56.110

Destruction of information relating to employee misconduct.

Nothing in this chapter prevents an agency from destroying information relating to employee misconduct or alleged misconduct, in accordance with RCW

41.06.450, to the extent necessary to ensure fairness to the employee.

[1982 c 208 § 13. Formerly RCW 42.17.295.]

Notes:

Severability -- 1982 c 208: See RCW [42.40.900](#).

42.56.120

Charges for copying.

No fee shall be charged for the inspection of public records. No fee shall be charged for locating public documents and making them available for copying. A reasonable charge may be imposed for providing copies of public records and for the use by any person of agency equipment or equipment of the office of the secretary of the senate or the office of the chief clerk of the house of representatives to copy public records, which charges shall not exceed the amount necessary to reimburse the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives for its actual costs directly incident to such copying. Agency charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by the agency. In no event may an agency charge a per page cost greater than the actual per page cost as established and published by the agency. To the extent the agency has not determined the actual per page cost for photocopies of public records, the agency may not charge in excess of fifteen cents per page. An agency may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request. If an agency makes a request available on a partial or installment basis, the agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the agency is not obligated to fulfill the balance of the request.

[2005 c 483 § 2. Prior: 1995 c 397 § 14; 1995 c 341 § 2; 1973 c 1 § 30 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW

[42.17.300](#).]

42.56.130

Other provisions not superseded.

The provisions of RCW

[42.56.070](#)(7) and (8) and [42.56.120](#) that establish or allow agencies to establish the costs charged for photocopies of public records do not supersede other statutory provisions, other than in this chapter, authorizing or governing fees for copying public records.

[2005 c 274 § 286; 1995 c 341 § 3. Formerly RCW [42.17.305](#).]

42.56.140

Public records exemptions accountability committee.

(1)(a) The public records exemptions accountability committee is created to review exemptions from public disclosure, with thirteen members as provided in this subsection.

(i) The governor shall appoint two members, one of whom represents the governor and one of whom represents local government.

(ii) The attorney general shall appoint two members, one of whom represents the attorney general and one of whom represents a statewide media association.

(iii) The state auditor shall appoint one member.

(iv) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(v) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(vi) The governor shall appoint four members of the public, with consideration given to diversity of viewpoint and geography.

(b) The governor shall select the chair of the committee from among its membership.

(c) Terms of the members shall be four years and shall be staggered, beginning August 1, 2007.

(2) The purpose of the public records exemptions accountability committee is to review public disclosure exemptions and provide recommendations pursuant to subsection (7)(d) of this section. The committee shall develop and publish criteria for review of public exemptions.

(3) All meetings of the committee shall be open to the public.

(4) The committee must consider input from interested parties.

(5) The office of the attorney general and the office of financial management shall provide staff support to the committee.

(6) Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW

44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7)(a) Beginning August 1, 2007, the code reviser shall provide the committee by August 1st of each year with a list of all public disclosure exemptions in the Revised Code of Washington.

(b) The committee shall develop a schedule to accomplish a review of each public disclosure exemption. The committee shall publish the schedule and publish any revisions made to the schedule.

(c) The chair shall convene an initial meeting of the committee by September 1, 2007. The committee shall meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the committee.

(d) For each public disclosure exemption, the committee shall provide a recommendation as to whether the exemption should be continued without modification, modified, scheduled for sunset review at a future date, or terminated. By November 15th of each year, the committee shall transmit its recommendations to the governor, the attorney general, and the appropriate committees of the house of representatives and the senate.

[2007 c 198 § 2.]

Notes:

Finding -- 2007 c 198: "The legislature recognizes that public disclosure exemptions are enacted to meet objectives that are determined to be in the public interest. Given the changing nature of information technology and management, recordkeeping, and the increasing number of public disclosure exemptions, the legislature finds that periodic reviews of public disclosure exemptions are needed to determine if each exemption serves the public interest." [2007 c 198 § 1.]

42.56.210

Certain personal and other records exempt.

(1) Except for information described in *RCW

42.56.230(3)(a) and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this chapter are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(2) Inspection or copying of any specific records exempt under the provisions of this chapter may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(3) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

[2005 c 274 § 402. Prior: (2006 c 302 § 11 expired July 1, 2006); (2006 c 75 § 2 expired July 1, 2006); (2006 c 8 § 111 expired July 1, 2006); (2003 1st sp.s. c 26 § 926 expired June 30, 2005); 2003 c 277 § 3; 2003 c 124 § 1; prior: 2002 c 335 § 1; 2002 c 224 § 2; 2002 c 205 § 4; 2002 c 172 § 1; prior: 2001 c 278 § 1; 2001 c 98 § 2; 2001 c 70 § 1; prior: 2000 c 134 § 3; 2000 c 56 § 1; 2000 c 6 § 5; prior: 1999 c 326 § 3; 1999 c 290 § 1; 1999 c 215 § 1; 1998 c 69 § 1; prior: 1997 c 310 § 2; 1997 c 274 § 8; 1997 c 250 § 7; 1997 c 239 § 4; 1997 c 220 § 120 (Referendum Bill No. 48, approved June 17, 1997); 1997 c 58 § 900; prior: 1996 c 305 § 2; 1996 c 253 § 302; 1996 c 191 § 88; 1996 c 80 § 1; 1995 c 267 § 6; prior: 1994 c 233 § 2; 1994 c 182 § 1; prior: 1993 c 360 § 2; 1993 c 320 § 9; 1993 c 280 § 35; prior: 1992 c 139 § 5; 1992 c 71 § 12; 1991 c 301 § 13; 1991 c 87 § 13; 1991 c 23 § 10; 1991 c 1 § 1; 1990 2nd ex.s. c 1 § 1103; 1990 c 256 § 1; prior: 1989 1st ex.s. c 9 § 407; 1989 c 352 § 7; 1989 c 279 § 23; 1989 c 238 § 1; 1989 c 205 § 20; 1989 c 189 § 3; 1989 c 11 § 12; prior: 1987 c 411 § 10; 1987 c 404 § 1; 1987 c 370 § 16; 1987 c 337 § 1; 1987 c 107 § 2; prior: 1986 c 299 § 25; 1986 c 276 § 7; 1985 c 414 § 8; 1984 c 143 § 21; 1983 c 133 § 10; 1982 c 64 § 1; 1977 ex.s. c 314 § 13; 1975-'76 2nd ex.s. c 82 § 5; 1975 1st ex.s. c 294 § 17; 1973 c 1 § 31 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.310.]

Notes:

***Reviser's note:** RCW 42.56.230 was amended by 2011 c 173 § 1, changing subsection (3)(a) to subsection (4)(a).

Expiration date -- 2006 c 302 §§ 9 and 11: See note following RCW 66.28.180.

Expiration date -- 2006 c 75 § 2: "Section 2 of this act expires July 1, 2006." [2006 c 75 § 4.]

Expiration date -- 2006 c 8 § 111: "Section 111 of this act expires July 1, 2006." [2006 c 8 § 404.]

Expiration date -- Severability -- Effective dates -- 2003 1st sp.s. c 26: See notes following RCW 43.135.045.

Working group on veterans' records: "The protection from identity theft for veterans who choose to file their discharge papers with the county auditor is a matter of gravest concern. At the same time, the integrity of the public record of each county is a matter of utmost importance to the economic life of this state and to the right of each citizen to be secure in his or her ownership of real property and other rights and obligations of our citizens that rely upon the public record for their proof. Likewise the integrity of the public record is essential for the establishment of ancestral ties that may be of interest to this and future generations. While the public record as now kept by the county auditors is sufficient by itself for the accomplishment of these and many other public and private purposes, the proposed use of the public record for purposes that in their nature and intent are not public, so as to keep the veterans' discharge papers from disclosure to those of ill intent, causes concern among many segments of the population of this state.

In order to voice these concerns effectively and thoroughly, a working group may be convened by the joint committee on veterans' and military affairs to develop a means to preserve the integrity of the public record while protecting those veterans from identity theft." [2002 c 224 § 1.]

Effective date -- 2002 c 224 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 28, 2002]." [2002 c 224 § 4.]

Findings -- Severability -- Effective dates -- 2002 c 205 §§ 2, 3, and 4: See notes following RCW 28A.320.125.

Finding -- 2001 c 98: "The legislature finds that public health and safety is promoted when the public has knowledge that enables them to make informed choices about their health and safety. Therefore, the legislature declares, as a matter of public policy, that the public has a right to information necessary to protect members of the public from harm caused by alleged hazards or threats to the public.

The legislature also recognizes that the public disclosure of those portions of records containing specific and unique vulnerability assessments or specific and unique response plans, either of which is intended to prevent or mitigate criminal terrorist acts as defined in RCW 70.74.285, could have a substantial likelihood of threatening public safety. Therefore, the legislature declares, as a matter of public policy, that such specific and unique information should be protected from unnecessary disclosure." [2001 c 98 § 1.]

Findings -- Conflict with federal requirements -- Severability -- 2000 c 134: See notes following RCW 50.13.060.

Effective date -- 1998 c 69: See note following RCW 28B.95.025.

Effective date -- 1997 c 274: See note following RCW 41.05.021.

Referendum -- Other legislation limited -- Legislators' personal intent not indicated -- Reimbursements for election -- Voters' pamphlet, election requirements -- 1997 c 220: See RCW 36.102.800 through 36.102.803.

Short title -- Part headings, captions, table of contents not law -- Exemptions and waivers from federal law -- Conflict with federal requirements -- Severability -- 1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Severability -- 1996 c 305: See note following RCW 28B.85.020.

Findings -- Purpose -- Severability -- Part headings not law -- 1996 c 253: See notes following RCW 28B.109.010.

Captions not law -- Severability -- Effective dates -- 1995 c 267: See notes following RCW 43.70.052.

Effective date -- 1994 c 233: See note following RCW 70.123.075.

Effective date -- 1994 c 182: "This act shall take effect July 1, 1994." [1994 c 182 § 2.]

Effective date -- 1993 c 360: See note following RCW 18.130.085.

Effective date--Severability -- 1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding -- 1991 c 301: See note following RCW 10.99.020.

Effective date -- 1991 c 87: See note following RCW 18.64.350.

Effective dates -- 1990 2nd ex.s. c 1: See note following RCW 84.52.010.

Severability -- 1990 2nd ex.s. c 1: See note following RCW 82.14.300.

Effective date -- Severability -- 1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability -- 1989 c 279: See RCW 43.163.901.

Severability -- 1989 c 11: See note following RCW 9A.56.220.

Severability -- 1987 c 411: See RCW 69.45.900.

Severability -- Effective date -- 1986 c 299: See RCW 28C.10.900 and 28C.10.902.

Severability -- 1986 c 276: See RCW 53.31.901.

Exemptions from public inspection

basic health plan records: RCW 70.47.150.

bill drafting service of code reviser's office: RCW 1.08.027, 44.68.060.

certificate submitted by individual with physical or mental disability seeking a driver's license: RCW 46.20.041.

commercial fertilizers, sales reports: RCW 15.54.362.

criminal records: Chapter 10.97 RCW.

employer information: RCW 50.13.060.

family and children's ombuds: RCW 43.06A.050.

legislative service center, information: RCW 44.68.060.

medical quality assurance commission, reports required to be filed with: RCW 18.71.0195.

organized crime investigative information: RCW 43.43.856.

public transportation information: RCW 47.04.240.

salary and fringe benefit survey information: RCW 41.06.160.

42.56.230

Personal information (as amended by 2013 c 220).

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

~~(2)(a) Personal information(, including but not limited to, addresses, telephone numbers, personal electronic mail addresses, social security numbers, emergency contact and date of birth information));~~

(i) For a child enrolled in licensed child care in any files maintained by the department of early learning; or

(ii) For a ((participant)) child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW

84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093; and

(7)(a) Documents and related materials and scanned images of documents and related materials used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicaid.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

[2013 c 220 § 1. Prior: 2011 c 350 § 2; 2011 c 173 § 1; 2010 c 106 § 102; 2009 c 510 § 8; 2008 c 200 § 5; 2005 c 274 § 403.]

42.56.230

Personal information (as amended by 2013 c 336).

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2) Personal information~~((;))~~ including, but not limited to, addresses, telephone numbers, personal electronic mail addresses, social security numbers, emergency contact and date of birth information for a participant in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs. Emergency contact information may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW

84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093; and

(7)(a) ~~((Documents and related materials and scanned images of documents and related materials))~~ Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(e) Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in (c) and (d) of this subsection that is subject to public disclosure.

[2013 c 336 § 3. Prior: 2011 c 350 § 2; 2011 c 173 § 1; 2010 c 106 § 102; 2009 c 510 § 8; 2008 c 200 § 5; 2005 c 274 § 403.]

Notes:

Reviser's note: RCW 42.56.230 was amended twice during the 2013 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date -- 2013 c 336: See note following RCW 46.08.066.

Effective date -- 2011 c 350: See note following RCW 46.20.111.

Effective date -- 2010 c 106: See note following RCW 35.102.145.

Effective date -- 2009 c 510: See RCW 31.45.901.

Finding -- Intent -- Liberal construction -- 2009 c 510: See note following RCW 31.45.010.

42.56.240

Investigative, law enforcement, and crime victims.

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter

9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator;

(6) The statewide gang database referenced in RCW 43.43.762;

(7) Data from the electronic sales tracking system established in RCW 69.43.165;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered

sex offender, including the person's name, residential address, and e-mail address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business; and

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822; and

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020; and

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates.

[2013 c 315 § 2; 2013 c 190 § 7; 2013 c 183 § 1; 2012 c 88 § 1. Prior: 2010 c 266 § 2; 2010 c 182 § 5; 2008 c 276 § 202; 2005 c 274 § 404.]

Notes:

Reviser's note: This section was amended by 2013 c 183 § 1, 2013 c 190 § 7, and by 2013 c 315 § 2, each without reference to the other. All amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding -- 2013 c 190: See note following RCW 42.52.410.

Severability -- Part headings, subheadings not law -- 2008 c 276: See notes following RCW 36.28A.200.

42.56.250

Employment and licensing.

The following employment and licensing information is exempt from public inspection and copying under this chapter:

(1) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;

(2) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(3) The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or

volunteers of any public agency. For purposes of this subsection, "employees" includes independent provider home care workers as defined in RCW

74.39A.240;

(4) Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed;

(5) Investigative records compiled by an employing agency conducting an active and ongoing investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment;

(6) Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025;

(7) Except as provided in *RCW 47.64.220, salary and benefit information for maritime employees collected from private employers under *RCW 47.64.220(1) and described in *RCW 47.64.220(2); and

(8) Photographs and month and year of birth in the personnel files of employees and workers of criminal justice agencies as defined in RCW 10.97.030. The news media, as defined in RCW 5.68.010 (5), shall have access to the photographs and full date of birth. For the purposes of this subsection, news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030.

[2010 c 257 § 1; 2010 c 128 § 9; 2006 c 209 § 6; 2005 c 274 § 405.]

Notes:

Reviser's note: *(1) RCW 47.64.220 was repealed by 2010 c 283 § 20.

(2) This section was amended by 2010 c 128 § 9 and by 2010 c 257 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

42.56.260

Real estate appraisals.

Except as provided by chapter

8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, are exempt from disclosure under this chapter. In no event may disclosure be denied for more than three years after the appraisal.

[2005 c 274 § 406.]

42.56.270

Financial, commercial, and proprietary information. (*Effective until January 1, 2014.*)

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW

47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c)

determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information; and

(21) Financial, commercial, operations, and technical and research information and data submitted to or obtained by innovate Washington in applications for, or delivery of, grants and loans under chapter 43.333 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information.

[2011 1st sp.s. c 14 § 15; 2009 c 394 § 3; 2008 c 306 § 1. Prior: 2007 c 470 § 2; (2007 c 470 § 1 expired June 30, 2008); 2007 c 251 § 13; (2007 c 251 § 12 expired June 30, 2008); 2007 c 197 § 4; (2007 c 197 § 3 expired June 30, 2008); prior: 2006 c 369 § 2; 2006 c 341 § 6; 2006 c 338 § 5; 2006 c 302 § 12; 2006 c 209 § 7; 2006 c 183 § 37; 2006 c 171 § 8; 2005 c 274 § 407.]

Notes:

Effective date -- 2011 1st sp.s. c 14: See RCW 43.333.901.

Intent -- 2009 c 394: See note following RCW 28B.20.150.

Effective date -- 2008 c 306 § 1: "Section 1 of this act takes effect June 30, 2008." [2008 c 306 § 2.]

Effective date -- 2007 c 470 § 2: "Section 2 of this act takes effect June 30, 2008." [2007 c 470 § 4.]

Expiration date -- 2007 c 470 § 1: "Section 1 of this act expires June 30, 2008." [2007 c 470 § 3.]

Effective date -- 2007 c 251 § 13: "Section 13 of this act takes effect June 30, 2008." [2007 c 251 § 18.]

Expiration date -- 2007 c 251 § 12: "Section 12 of this act expires June 30, 2008." [2007 c 251 § 17.]

Captions not law -- Severability -- 2007 c 251: See notes following RCW 35.104.010.

Effective date -- 2007 c 197 § 4: "Section 4 of this act takes effect June 30, 2008." [2007 c 197 § 11.]

Expiration date -- 2007 c 197 § 3: "Section 3 of this act expires June 30, 2008." [2007 c 197 § 10.]

Effective date -- 2006 c 369 § 2: "Section 2 of this act takes effect July 1, 2006." [2006 c 369 § 3.]

Effective date -- 2006 c 341 § 6: "Section 6 of this act takes effect July 1, 2006." [2006 c 341 § 7.]

Findings -- Intent -- 2006 c 338: See note following RCW 19.112.110.

Effective date -- Severability -- 2006 c 338: See RCW 19.112.903 and 19.112.904.

Effective date -- 2006 c 302 §§ 10 and 12: See note following RCW 66.28.180.

Construction -- Severability -- Effective date -- 2006 c 183: See RCW 70.95N.900 through 70.95N.902.

Effective date -- 2006 c 171 §§ 8 and 10: "Sections 8 and 10 of this act take effect July 1, 2006." [2006 c 171 § 13.]

Findings -- Severability -- 2006 c 171: See RCW 43.325.001 and 43.325.901.

42.56.270

Financial, commercial, and proprietary information. (*Effective January 1, 2014.*)

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

- (1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;
- (2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;
- (3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;
- (4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;
- (5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;
- (6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;
- (7) Financial and valuable trade information under RCW 51.36.120;
- (8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;
- (9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;
- (10)(a) Financial information, including but not limited to account numbers and values, and other

identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information;

(21) Financial, commercial, operations, and technical and research information and data submitted to or obtained by innovate Washington in applications for, or delivery of, grants and loans under chapter 43.333 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information; and

(22) Market share data submitted by a manufacturer under RCW 70.95N.190(4).

[2013 c 305 § 14; 2011 1st sp.s. c 14 § 15; 2009 c 394 § 3; 2008 c 306 § 1. Prior: 2007 c 470 § 2; (2007 c 470 § 1 expired June 30, 2008); 2007 c 251 § 13; (2007 c 251 § 12 expired June 30, 2008); 2007 c 197 § 4; (2007 c 197 § 3 expired June 30, 2008); prior: 2006 c 369 § 2; 2006 c 341 § 6; 2006 c 338 § 5; 2006 c 302 § 12; 2006 c 209 § 7; 2006 c 183 § 37; 2006 c 171 § 8; 2005 c 274 § 407.]

Notes:

Effective date -- 2013 c 305: See note following RCW 70.95N.020.

Effective date -- 2011 1st sp.s. c 14: See RCW 43.333.901.

Intent -- 2009 c 394: See note following RCW 28B.20.150.

Effective date -- 2008 c 306 § 1: "Section 1 of this act takes effect June 30, 2008." [2008 c 306 § 2.]

Effective date -- 2007 c 470 § 2: "Section 2 of this act takes effect June 30, 2008." [2007 c 470 § 4.]

Expiration date -- 2007 c 470 § 1: "Section 1 of this act expires June 30, 2008." [2007 c 470 § 3.]

Effective date -- 2007 c 251 § 13: "Section 13 of this act takes effect June 30, 2008." [2007 c 251 § 18.]

Expiration date -- 2007 c 251 § 12: "Section 12 of this act expires June 30, 2008." [2007 c 251 § 17.]

Captions not law -- Severability -- 2007 c 251: See notes following RCW 35.104.010.

Effective date -- 2007 c 197 § 4: "Section 4 of this act takes effect June 30, 2008." [2007 c 197 § 11.]

Expiration date -- 2007 c 197 § 3: "Section 3 of this act expires June 30, 2008." [2007 c 197 § 10.]

Effective date -- 2006 c 369 § 2: "Section 2 of this act takes effect July 1, 2006." [2006 c 369 § 3.]

Effective date -- 2006 c 341 § 6: "Section 6 of this act takes effect July 1, 2006." [2006 c 341 § 7.]

Findings -- Intent -- 2006 c 338: See note following RCW [19.112.110](#).

Effective date -- Severability -- 2006 c 338: See RCW [19.112.903](#) and [19.112.904](#).

Effective date -- 2006 c 302 §§ 10 and 12: See note following RCW [66.28.180](#).

Construction -- Severability -- Effective date -- 2006 c 183: See RCW [70.95N.900](#) through [70.95N.902](#).

Effective date -- 2006 c 171 §§ 8 and 10: "Sections 8 and 10 of this act take effect July 1, 2006." [2006 c 171 § 13.]

Findings -- Severability -- 2006 c 171: See RCW [43.325.001](#) and [43.325.901](#).

42.56.280

Preliminary drafts, notes, recommendations, intra-agency memorandums.

Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended are exempt under this chapter, except that a specific record is not exempt when publicly cited by an agency in connection with any agency action.

[2005 c 274 § 408.]

42.56.290

Agency party to controversy.

Records that are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts are exempt from disclosure under this chapter.

[2005 c 274 § 409.]

42.56.300

Archaeological sites.

(1) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites are exempt from disclosure under this chapter.

(2) Records, maps, and other information, acquired during watershed analysis pursuant to the forests and fish report under RCW

76.09.370, that identify the location of archaeological sites, historic sites, artifacts, or the sites of traditional religious, ceremonial, or social uses and activities of affected Indian tribes, are exempt from disclosure under this chapter in order to prevent the looting or depredation of such sites.

[2006 c 86 § 1; 2005 c 274 § 410.]

Notes:

Effective date -- 2006 c 86: "This act takes effect July 1, 2006." [2006 c 86 § 2.]

42.56.310

Library records.

Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, that discloses or could be used to disclose the identity of a library user is exempt from disclosure under this chapter.

[2005 c 274 § 411.]

42.56.320

Educational information.

The following educational information is exempt from disclosure under this chapter:

(1) Financial disclosures filed by private vocational schools under chapters

28B.85 and 28C.10 RCW;

(2) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units;

(3) Individually identifiable information received by the workforce training and education coordinating board for research or evaluation purposes;

(4) Except for public records as defined in RCW 40.14.010, any records or documents obtained by a state college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regulate public access to those records or documents; and

(5) The annual declaration of intent filed by parents under RCW 28A.200.010 for a child to receive home-based instruction.

[2009 c 191 § 1; 2005 c 274 § 412.]

42.56.330

Public utilities and transportation.

The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

- (1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095;
- (2) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;
- (3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service; however, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;
- (4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;
- (5) The personally identifying information of persons who acquire and use transit passes or other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose personally identifying information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media for the purpose of preventing fraud, or to the news media when reporting on public transportation or public safety. As used in this subsection, "personally identifying information" includes acquisition or use information pertaining to a specific, individual transit pass or fare payment media.
 - (a) Information regarding the acquisition or use of transit passes or fare payment media may be disclosed in aggregate form if the data does not contain any personally identifying information.
 - (b) Personally identifying information may be released to law enforcement agencies if the request is accompanied by a court order;
- (6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010;
- (7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; and

(8) The personally identifying information of persons who acquire and use a driver's license or identicard that includes a radio frequency identification chip or similar technology to facilitate border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only for United States customs and border protection enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.

[2012 c 68 § 4; 2010 c 128 § 8; 2008 c 200 § 6; 2007 c 197 § 5; 2006 c 209 § 8; 2005 c 274 § 413.]

42.56.335

Public utility districts and municipally owned electrical utilities — Restrictions on access by law enforcement authorities.

A law enforcement authority may not request inspection or copying of records of any person who belongs to a public utility district or a municipally owned electrical utility unless the authority provides the public utility district or municipally owned electrical utility with a written statement in which the authority states that it suspects that the particular person to whom the records pertain has committed a crime and the authority has a reasonable belief that the records could determine or help determine whether the suspicion might be true. Information obtained in violation of this section is inadmissible in any criminal proceeding.

[2007 c 197 § 6.]

42.56.340

Timeshare, condominium, etc. owner lists.

Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department are exempt from disclosure under this chapter.

[2005 c 274 § 414.]

42.56.350

Health professionals.

(1) The federal social security number of individuals governed under chapter

18.130 RCW maintained in the files of the department of health is exempt from disclosure under this chapter. The exemption in this section does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations.

(2) The current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department are exempt from disclosure under this chapter, if the provider requests that this information be withheld from public

inspection and copying, and provides to the department of health an accurate alternate or business address and business telephone number. The current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department of health shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.56.070(9).

[2005 c 274 § 415.]

42.56.360
Health care.

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the pharmacy quality assurance commission as provided in RCW 69.45.090;

(b) Information obtained by the pharmacy quality assurance commission or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1) (d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

(g) Information obtained by the department of health under chapter 70.225 RCW;

(h) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;

(i) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b); and

(j) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as "exempt" so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

[2013 c 19 § 47. Prior: 2010 c 128 § 3; 2010 c 52 § 6; prior: 2009 c 1 § 24 (Initiative Measure No. 1000, approved November 4, 2008); (2009 c 1 § 23 (Initiative Measure No. 1000), approved November 4, 2008) expired July 1, 2009); 2008 c 136 § 5; (2008 c 136 § 4 expired July 1, 2009); prior: 2007 c 273 § 25; 2007 c 261 § 4; 2007 c 259 § 49; prior: 2006 c 209 § 9; 2006 c 8 § 112; 2005 c 274 § 416.]

Notes:

Findings -- Intent -- 2010 c 52: See note following RCW 70.168.015.

Expiration date -- 2009 c 1 (Initiative Measure No. 1000) § 23: "Section 23 of this act expires July 1, 2009." [2009 c 1 § 31 (Initiative Measure No. 1000, approved November 4, 2008).]

Short title -- Severability -- Effective dates -- Captions, part headings, and subpart headings not law -- 2009 c 1 (Initiative Measure No. 1000): See RCW 70.245.901 through 70.245.904.

Effective date -- 2008 c 136 § 5: "Section 5 of this act takes effect July 1, 2009." [2008 c 136 § 7.]

Expiration date -- 2008 c 136 § 4: "Section 4 of this act expires July 1, 2009." [2008 c 136 § 6.]

Effective date -- Implementation -- 2007 c 273: See RCW 70.230.900 and 70.230.901.

Findings -- 2007 c 261: See note following RCW 43.70.056.

Severability -- Subheadings not law -- 2007 c 259: See notes following RCW 41.05.033.

Effective date -- 2006 c 8 §§ 112 and 210: "Sections 112 and 210 of this act take effect July 1, 2006." [2006 c 8 § 405.]

Findings -- Intent -- Part headings and subheadings not law -- Severability -- 2006 c 8: See notes following RCW 5.64.010.

Basic health plan -- Confidentiality: RCW 70.47.150.

42.56.370

Client records of domestic violence programs, or community sexual assault programs or services for underserved populations.

Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a community sexual assault program or services for underserved populations as defined in RCW 70.125.030 are exempt from disclosure under this chapter.

[2012 c 29 § 13; 2005 c 274 § 417.]

42.56.380

Agriculture and livestock.

The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

(1) Business-related information under RCW

15.86.110;

(2) Information provided under RCW 15.54.362;

(3) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;

(5) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information;

(6) Information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer, except for providing reports to the United States fish and wildlife service under RCW 15.19.080;

(7) Information collected regarding packers and shippers of fruits and vegetables for the issuance of certificates of compliance under RCW 15.17.140(2) and 15.17.143;

(8) Financial statements obtained under RCW 16.65.030(1)(d) for the purposes of determining

whether or not the applicant meets the minimum net worth requirements to construct or operate a public livestock market;

(9) Information submitted by an individual or business to the department of agriculture under the requirements of chapters 16.36, 16.57, and 43.23 RCW for the purpose of herd inventory management for animal disease traceability. This information includes animal ownership, numbers of animals, locations, contact information, movements of livestock, financial information, the purchase and sale of livestock, account numbers or unique identifiers issued by government to private entities, and information related to livestock disease or injury that would identify an animal, a person, or location. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete;

(10) Results of testing for animal diseases from samples submitted by or at the direction of the animal owner or his or her designee that can be identified to a particular business or individual;

(11) Records of international livestock importation that can be identified to a particular animal, business, or individual received from the United States department of homeland security or the United States department of agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552; and

(12) Records related to the entry of prohibited agricultural products imported into Washington state or that had Washington state as a final destination received from the United States department of homeland security or the United States department of agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552.

[2012 c 168 § 1; 2010 c 128 § 2; 2009 c 33 § 37; 2007 c 177 § 1. Prior: 2006 c 330 § 26; 2006 c 75 § 3; 2005 c 274 § 418.]

Notes:

Effective date -- 2006 c 330 § 26: "Section 26 of this act takes effect July 1, 2006." [2006 c 330 § 32.]

Construction -- Severability -- 2006 c 330: See RCW 15.89.900 and 15.89.901.

Effective date -- 2006 c 75 § 3: "Section 3 of this act takes effect July 1, 2006." [2006 c 75 § 5.]

Findings -- 2006 c 75: "The legislature finds that livestock identification numbers, premise information, and animal movement data are proprietary information that all have a role in defining a livestock producer's position within the marketplace, including his or her competitive advantage over other producers. The legislature therefore finds that exempting certain voluntary livestock identification, premise, and movement information from state public disclosure requirements will foster an environment that is more conducive to voluntary participation, and lead to a more effective livestock identification system." [2006 c 75 § 1.]

42.56.390

Emergency or transitional housing.

Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW

84.36.043 are exempt from disclosure under this chapter.

[2005 c 274 § 419.]

42.56.400

Insurance and financial institutions. (*Effective until July 1, 2017.*)

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW

7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; and

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; and

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5).

[2013 c 277 § 5; 2013 c 65 § 5; 2012 2nd sp.s. c 3 § 8; 2012 c 222 § 2; 2011 c 188 § 21. Prior: 2010 c 172 § 2; 2010 c 97 § 3; 2009 c 104 § 23; prior: 2007 c 197 § 7; 2007 c 117 § 36; 2007 c 82 § 17; prior: 2006 c 284 § 17; 2006 c 8 § 210; 2005 c 274 § 420.]

Notes:

Reviser's note: This section was amended by 2013 c 65 § 5 and by 2013 c 277 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date -- 2013 c 277: See note following RCW 48.43.730.

Findings -- Goals -- Intent -- 2012 2nd sp.s. c 3: See note following RCW 28A.400.275.

Effective date -- 2011 c 188: See RCW 48.13.900.

Severability -- Effective date -- 2007 c 117: See RCW 48.17.900 and 48.17.901.

Severability -- Effective date -- 2006 c 284: See RCW 48.135.900 and 48.135.901.

Effective date -- 2006 c 8 §§ 112 and 210: See note following RCW 42.56.360.

Findings -- Intent -- Part headings and subheadings not law -- Severability -- 2006 c 8: See notes following RCW 5.64.010.

42.56.400

Insurance and financial institutions. (*Effective July 1, 2017.*)

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

- (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
- (b) "Health care facility" has the same meaning as in RCW 48.140.010(6).
- (c) "Health care provider" has the same meaning as in RCW 48.140.010(7).
- (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
- (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; and

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017.

[2013 c 65 § 5; 2012 2nd sp.s. c 3 § 8; 2012 c 222 § 2; 2011 c 188 § 21. Prior: 2010 c 172 § 2; 2010 c 97 § 3; 2009 c 104 § 23; prior: 2007 c 197 § 7; 2007 c 117 § 36; 2007 c 82 § 17; prior: 2006 c 284 § 17; 2006 c 8 § 210; 2005 c 274 § 420.]

Notes:

Findings -- Goals -- Intent -- 2012 2nd sp.s. c 3: See note following RCW 28A.400.275.

Effective date -- 2011 c 188: See RCW 48.13.900.

Severability -- Effective date -- 2007 c 117: See RCW 48.17.900 and 48.17.901.

Severability -- Effective date -- 2006 c 284: See RCW 48.135.900 and 48.135.901.

Effective date -- 2006 c 8 §§ 112 and 210: See note following RCW 42.56.360.

Findings -- Intent -- Part headings and subheadings not law -- Severability -- 2006 c 8: See notes following RCW 5.64.010.

42.56.403

Property and casualty insurance statements of actuarial opinion.

Documents, materials, and information obtained by the insurance commissioner under RCW

48.05.385(2) are confidential and privileged and not subject to public disclosure under this chapter.

[2006 c 25 § 3.]

Notes:

Short title -- 2006 c 25 §§ 1-3: See note following RCW 48.05.383.

Effective date -- 2006 c 25 §§ 1-4: See note following RCW 48.05.383.

42.56.410

Employment security department records, certain purposes.

Records maintained by the employment security department and subject to chapter

50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes are exempt from disclosure under this chapter.

[2005 c 274 § 421.]

42.56.420

Security.

The following information relating to security is exempt from disclosure under this chapter:

(1) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(a) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(b) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism;

(2) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, or secure facility for persons civilly confined under chapter

71.09 RCW, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility, secure facility for persons civilly confined under chapter 71.09 RCW, or any individual's safety;

(3) Information compiled by school districts or schools in the development of their comprehensive safe school plans under RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school;

(4) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities, and other such information the release of which may increase risk to the confidentiality, integrity, or availability of agency security, information technology infrastructure, or assets; and

(5) The system security and emergency preparedness plan required under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180.

[2013 2nd sp.s. c 33 § 9; 2009 c 67 § 1; 2005 c 274 § 422.]

42.56.430

Fish and wildlife.

The following information relating to fish and wildlife is exempt from disclosure under this chapter:

(1) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW

77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data, however, this information may be released to government agencies concerned with the management of fish and wildlife resources;

(2) Sensitive fish and wildlife data. Sensitive fish and wildlife data may be released to the following entities and their agents for fish, wildlife, land management purposes, or scientific research needs: Government agencies, public utilities, and accredited colleges and universities. Sensitive fish and wildlife data may be released to tribal governments. Sensitive fish and wildlife data may also be released to the owner, lessee, or right-of-way or easement holder of the private land to which the data pertains. The release of sensitive fish and wildlife data may be subject to a confidentiality agreement, except upon release of sensitive fish and wildlife data to the owner, lessee, or right-of-way or easement holder of private land who initially provided the data. Sensitive fish and wildlife data does not include data related to reports of predatory wildlife as specified in RCW 77.12.885. Sensitive fish and wildlife data must meet at least one of the following criteria of this subsection as applied by the department of fish and wildlife:

(a) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(b) Radio frequencies used in, or locational data generated by, telemetry studies; or

(c) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(i) The species has a known commercial or black market value;

(ii) There is a history of malicious take of that species and the species behavior or ecology renders it especially vulnerable;

(iii) There is a known demand to visit, take, or disturb the species; or

(iv) The species has an extremely limited distribution and concentration;

(3) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag; however, the department of fish and wildlife may disclose personally identifying information to:

(a) Government agencies concerned with the management of fish and wildlife resources;

(b) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(c) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040; and

(4) Information that the department of fish and wildlife has received or accessed but may not disclose due to confidentiality requirements in the Magnuson-Stevens fishery conservation and management reauthorization act of 2006 (16 U.S.C. Sec. 1861(h)(3) and (i), and Sec. 1881a(b)).

[2008 c 252 § 1; 2007 c 293 § 1; 2005 c 274 § 423.]

42.56.440

Veterans' discharge papers — Exceptions.

(1) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents are exempt from disclosure under this chapter. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(2) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records are exempt from disclosure under this chapter, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(3) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(4) For the purposes of this section, next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

[2005 c 274 § 424.]

42.56.450

Check cashers and sellers licensing applications.

Information in an application for licensing or a small loan endorsement under chapter

31.45 RCW regarding the personal residential address, telephone number of the applicant, or financial statement is exempt from disclosure under this chapter.

[2005 c 274 § 425.]

42.56.460

Fireworks.

All records obtained and all reports produced as required by state fireworks law, chapter

70.77 RCW, are exempt from disclosure under this chapter.

[2005 c 274 § 426.]

42.56.470

Correctional industries workers.

All records, documents, data, and other materials obtained under the requirements of RCW

[72.09.115](#) from an existing correctional industries class I work program participant or an applicant for a proposed new or expanded class I correctional industries work program are exempt from public disclosure under this chapter.

[2005 c 274 § 427.]

42.56.480

Inactive programs.

Information relating to the following programs and reports, which have no ongoing activity, is exempt from disclosure under this chapter:

(1) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under *RCW

[81.34.070](#), except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter;

(2) Personal information in files maintained in a database created under **RCW [43.07.360](#); and

(3) Data collected by the department of social and health services for the reports required by section 8, chapter 231, Laws of 2003, except as compiled in the aggregate and reported to the senate and house of representatives.

[2005 c 274 § 428.]

Notes:

Reviser's note: *(1) RCW [81.34.070](#) was repealed by 1991 c 49 § 1.

** (2) RCW [43.07.360](#) expired December 31, 2000, pursuant to 1996 c 253 § 502.

42.56.510

Duty to disclose or withhold information — Otherwise provided.

Nothing in RCW

[42.56.250](#) and [42.56.330](#) shall affect a positive duty of an agency to disclose or a positive duty to withhold information which duty to disclose or withhold is contained in any other law.

[2005 c 274 § 287; 1991 c 23 § 11; 1990 c 256 § 2; 1987 c 404 § 3. Formerly RCW [42.17.311](#).]

42.56.520

Prompt responses required.

Responses to requests for public records shall be made promptly by agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives. Within five business days of receiving a public record request, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives must respond by either (1) providing the record; (2) providing an internet address and link on the agency's web site to the specific records requested, except that if the requester notifies the agency that he or she cannot access the records through the internet, then the agency must provide copies of the record or allow the requester to view copies using an agency computer; (3) acknowledging that the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives has received the request and providing a reasonable estimate of the time the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives will require to respond to the request; or (4) denying the public record request. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, an agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives need not respond to it. Denials of requests must be accompanied by a written statement of the specific reasons therefor. Agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall establish mechanisms for the most prompt possible review of decisions denying inspection, and such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final agency action or final action by the office of the secretary of the senate or the office of the chief clerk of the house of representatives for the purposes of judicial review.

[2010 c 69 § 2; 1995 c 397 § 15; 1992 c 139 § 6; 1975 1st ex.s. c 294 § 18; 1973 c 1 § 32 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW

42.17.320.]

Notes:

Finding -- 2010 c 69: "The internet provides for instant access to public records at a significantly reduced cost to the agency and the public. Agencies are encouraged to make commonly requested records available on agency web sites. When an agency has made records available on its web site, members of the public with computer access should be encouraged to preserve taxpayer resources by accessing those records online." [2010 c 69 § 1.]

42.56.530

Review of agency denial.

Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter. The attorney general shall provide the person with his or her written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section.

[1992 c 139 § 10. Formerly RCW

42.17.325.]

42.56.540

Court protection of public records.

The examination of any specific public record may be enjoined if, upon motion and affidavit by an agency or its representative or a person who is named in the record or to whom the record specifically pertains, the superior court for the county in which the movant resides or in which the record is maintained, finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions. An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested. However, this option does not exist where the agency is required by law to provide such notice.

[1992 c 139 § 7; 1975 1st ex.s. c 294 § 19; 1973 c 1 § 33 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW

42.17.330.]

42.56.550

Judicial review of agency actions.

(1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.

(3) Judicial review of all agency actions taken or challenged under RCW

42.56.030 through 42.56.520 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

(4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court to award such person an amount not to exceed one hundred dollars for each day that he or she was denied the right

to inspect or copy said public record.

(5) For actions under this section against counties, the venue provisions of RCW 36.01.050 apply.

(6) Actions under this section must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis.

[2011 c 273 § 1. Prior: 2005 c 483 § 5; 2005 c 274 § 288; 1992 c 139 § 8; 1987 c 403 § 5; 1975 1st ex.s. c 294 § 20; 1973 c 1 § 34 (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW 42.17.340.]

Notes:

Intent -- Severability -- 1987 c 403: See notes following RCW 42.56.050.

Application of chapter 300, Laws of 2011: See note following RCW 42.56.565.

42.56.560

Application of RCW 42.56.550.

The procedures in RCW

42.56.550 govern denials of an opportunity to inspect or copy a public record by the office of the secretary of the senate or the office of the chief clerk of the house of representatives.

[2005 c 274 § 289; 1995 c 397 § 16. Formerly RCW 42.17.341.]

42.56.565

Inspection or copying by persons serving criminal sentences — Injunction.

(1) A court shall not award penalties under RCW

42.56.550(4) to a person who was serving a criminal sentence in a state, local, or privately operated correctional facility on the date the request for public records was made, unless the court finds that the agency acted in bad faith in denying the person the opportunity to inspect or copy a public record.

(2) The inspection or copying of any nonexempt public record by persons serving criminal sentences in state, local, or privately operated correctional facilities may be enjoined pursuant to this section.

(a) The injunction may be requested by: (i) An agency or its representative; (ii) a person named in the record or his or her representative; or (iii) a person to whom the requests specifically pertains or his or her representative.

(b) The request must be filed in: (i) The superior court in which the movant resides; or (ii) the superior court in the county in which the record is maintained.

(c) In order to issue an injunction, the court must find that:

(i) The request was made to harass or intimidate the agency or its employees;

(ii) Fulfilling the request would likely threaten the security of correctional facilities;

(iii) Fulfilling the request would likely threaten the safety or security of staff, inmates, family members of staff, family members of other inmates, or any other person; or

(iv) Fulfilling the request may assist criminal activity.

(3) In deciding whether to enjoin a request under subsection (2) of this section, the court may consider all relevant factors including, but not limited to:

(a) Other requests by the requestor;

(b) The type of record or records sought;

(c) Statements offered by the requestor concerning the purpose for the request;

(d) Whether disclosure of the requested records would likely harm any person or vital government interest;

(e) Whether the request seeks a significant and burdensome number of documents;

(f) The impact of disclosure on correctional facility security and order, the safety or security of correctional facility staff, inmates, or others; and

(g) The deterrence of criminal activity.

(4) The motion proceeding described in this section shall be a summary proceeding based on affidavits or declarations, unless the court orders otherwise. Upon a showing by a preponderance of the evidence, the court may enjoin all or any part of a request or requests. Based on the evidence, the court may also enjoin, for a period of time the court deems reasonable, future requests by:

(a) The same requestor; or

(b) An entity owned or controlled in whole or in part by the same requestor.

(5) An agency shall not be liable for penalties under RCW 42.56.550(4) for any period during which an order under this section is in effect, including during an appeal of an order under this section, regardless of the outcome of the appeal.

[2011 c 300 § 1; 2009 c 10 § 1.]

Notes:

Application -- 2011 c 300: "This act applies to all actions brought under RCW 42.56.550 in which final judgment has not been entered as of July 22, 2011." [2011 c 300 § 2.]

Effective date -- 2009 c 10: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 20, 2009]." [2009 c 10 § 2.]

42.56.570

Explanatory pamphlet.

(1) The attorney general's office shall publish, and update when appropriate, a pamphlet, written in plain language, explaining this chapter.

(2) The attorney general, by February 1, 2006, shall adopt by rule an advisory model rule for state and local agencies, as defined in RCW

42.56.010, addressing the following subjects:

- (a) Providing fullest assistance to requestors;
- (b) Fulfilling large requests in the most efficient manner;
- (c) Fulfilling requests for electronic records; and
- (d) Any other issues pertaining to public disclosure as determined by the attorney general.

(3) The attorney general, in his or her discretion, may from time to time revise the model rule.

[2007 c 197 § 8. Prior: 2005 c 483 § 4; 2005 c 274 § 290; 1992 c 139 § 9. Formerly RCW 42.17.348.]

42.56.580

Public records officers.

(1) Each state and local agency shall appoint and publicly identify a public records officer whose responsibility is to serve as a point of contact for members of the public in requesting disclosure of public records and to oversee the agency's compliance with the public records disclosure requirements of this chapter. A state or local agency's public records officer may appoint an employee or official of another agency as its public records officer.

(2) For state agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance with the public records disclosure requirements of this chapter shall be published in the state register at the time of designation and maintained thereafter on the code reviser web site for the duration of the designation.

(3) For local agencies, the name and contact information of the agency's public records officer to whom members of the public may direct requests for disclosure of public records and who will oversee the agency's compliance within the public records disclosure requirements of this chapter shall be made in a way reasonably calculated to provide notice to the public, including posting at the local agency's place of business, posting on its internet site, or including in its publications.

[2007 c 456 § 6; 2005 c 483 § 3. Formerly RCW

42.17.253.]

42.56.590

Personal information — Notice of security breaches.

(1)(a) Any agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3) of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) For purposes of this section, "agency" means the same as in RCW

42.56.010.

(2) Any agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(a) Social security number;

(b) Driver's license number or Washington identification card number; or

(c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(7) For purposes of this section and except under subsection (8) of this section, notice may be provided by one of the following methods:

(a) Written notice;

(b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or

(c) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five

hundred thousand, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

- (i) E-mail notice when the agency has an e-mail address for the subject persons;
 - (ii) Conspicuous posting of the notice on the agency's web site page, if the agency maintains one; and
 - (iii) Notification to major statewide media.
- (8) An agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.
- (9) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.
- (10)(a) Any customer injured by a violation of this section may institute a civil action to recover damages.
- (b) Any business that violates, proposes to violate, or has violated this section may be enjoined.
- (c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.
- (d) An agency shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity.

[2007 c 197 § 9; 2005 c 368 § 1. Formerly RCW [42.17.31922](#).]

Notes:

Similar provision: RCW [19.255.010](#).

42.56.600

Mediation communications.

Records of mediation communications that are privileged under chapter

[7.07](#) RCW are exempt from disclosure under this chapter.

[2006 c 209 § 15.]

42.56.610

Certain information from dairies and feedlots limited — Rules.

The following information in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations, not required to apply for a national pollutant discharge elimination system permit is disclosable only in ranges that provide meaningful information to the public while ensuring confidentiality of business information regarding: (1)

Number of animals; (2) volume of livestock nutrients generated; (3) number of acres covered by the plan or used for land application of livestock nutrients; (4) livestock nutrients transferred to other persons; and (5) crop yields. The department of agriculture shall adopt rules to implement this section in consultation with affected state and local agencies.

[2005 c 510 § 5. Formerly RCW

42.17.31923.]

42.56.900

Purpose — 2005 c 274 §§ 402-429.

The purpose of sections 402 through 429 of this act is to reorganize the public inspection and copying exemptions in *RCW

42.17.310 through 42.17.31921 by creating smaller, discrete code sections organized by subject matter. The legislature does not intend that this act effectuate any substantive change to any public inspection and copying exemption in the Revised Code of Washington.

[2005 c 274 § 401.]

Notes:

***Reviser's note:** The substance of RCW 42.17.310 through 42.17.31921 was recodified in chapter 42.56 RCW. See the Comparative Table in the Table of Disposition of Former RCW Sections.

42.56.901

Part headings not law — 2005 c 274.

Part headings used in this act are not any part of the law.

[2005 c 274 § 501.]

42.56.902

Effective date — 2005 c 274.

This act takes effect July 1, 2006.

[2005 c 274 § 502.]

42.56.903

Effective date — 2006 c 209.

This act takes effect July 1, 2006.

[2006 c 209 § 17.]

42.56.904

Intent — 2007 c 391.

It is the intent of the legislature to clarify that no reasonable construction of chapter

[42.56](#) RCW has ever allowed attorney invoices to be withheld in their entirety by any public entity in a request for documents under that chapter. It is further the intent of the legislature that specific descriptions of work performed be redacted only if they would reveal an attorney's mental impressions, actual legal advice, theories, or opinions, or are otherwise exempt under chapter 391, Laws of 2007 or other laws, with the burden upon the public entity to justify each redaction and narrowly construe any exception to full disclosure. The legislature intends to clarify that the public's interest in open, accountable government includes an accounting of any expenditure of public resources, including through liability insurance, upon private legal counsel or private consultants.

[2007 c 391 § 1.]

Chapter 42.30 RCW OPEN PUBLIC MEETINGS ACT

RCW Sections

- 42.30.010 Legislative declaration.
- 42.30.020 Definitions.
- 42.30.030 Meetings declared open and public.
- 42.30.040 Conditions to attendance not to be required.
- 42.30.050 Interruptions -- Procedure.
- 42.30.060 Ordinances, rules, resolutions, regulations, etc., adopted at public meetings -- Notice -- Secret voting prohibited.
- 42.30.070 Times and places for meetings -- Emergencies -- Exception.
- 42.30.075 Schedule of regular meetings -- Publication in state register -- Notice of change -- "Regular" meetings defined.
- 42.30.080 Special meetings.
- 42.30.090 Adjournments.
- 42.30.100 Continuances.
- 42.30.110 Executive sessions.
- 42.30.120 Violations -- Personal liability -- Civil penalty -- Attorneys' fees and costs.
- 42.30.130 Violations -- Mandamus or injunction.
- 42.30.140 Chapter controlling -- Application.
- 42.30.200 Governing body of recognized student association at college or university -- Chapter applicability to.
- 42.30.210 Assistance by attorney general.
- 42.30.900 Short title.
- 42.30.910 Construction -- 1971 ex.s. c 250.
- 42.30.920 Severability -- 1971 ex.s. c 250.

Notes:

Drug reimbursement policy recommendations: [RCW 74.09.653](#).

42.30.010

Legislative declaration.

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people

to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

[1971 ex.s. c 250 § 1.]

Notes:

Reviser's note: Throughout this chapter, the phrases "this act" and "this 1971 amendatory act" have been changed to "this chapter." "This act" [1971 ex.s. c 250] consists of this chapter, the amendment to RCW 34.04.025, and the repeal of RCW 42.32.010 and 42.32.020.

42.30.020

Definitions.

As used in this chapter unless the context indicates otherwise:

(1) "Public agency" means:

(a) Any state board, commission, committee, department, educational institution, or other state agency which is created by or pursuant to statute, other than courts and the legislature;

(b) Any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington;

(c) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies;

(d) Any policy group whose membership includes representatives of publicly owned utilities formed by or pursuant to the laws of this state when meeting together as or on behalf of participants who have contracted for the output of generating plants being planned or built by an operating agency.

(2) "Governing body" means the multimember board, commission, committee, council, or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.

(3) "Action" 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.

(4) "Meeting" means meetings at which action is taken.

[1985 c 366 § 1; 1983 c 155 § 1; 1982 1st ex.s. c 43 § 10; 1971 ex.s. c 250 § 2.]

Notes:

Severability -- Savings -- 1982 1st ex.s. c 43: See notes following RCW 43.52.374.

42.30.030

Meetings declared open and public.

All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting of the governing body of a public agency, except as otherwise provided in this chapter.

[1971 ex.s. c 250 § 3.]

42.30.040

Conditions to attendance not to be required.

A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his or her name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

[2012 c 117 § 124; 1971 ex.s. c 250 § 4.]

42.30.050

Interruptions — Procedure.

In the event that any meeting is interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are interrupting the meeting, the members of the governing body conducting the meeting may order the meeting room cleared and continue in session or may adjourn the meeting and reconvene at another location selected by majority vote of the members. In such a session, final disposition may be taken only on matters appearing on the agenda. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the governing body from establishing a procedure for readmitting an individual or individuals not responsible for disturbing the orderly conduct of the meeting.

[1971 ex.s. c 250 § 5.]

42.30.060

Ordinances, rules, resolutions, regulations, etc., adopted at public meetings — Notice — Secret voting prohibited.

(1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.

[1989 c 42 § 1; 1971 ex.s. c 250 § 6.]

42.30.070

Times and places for meetings — Emergencies — Exception.

The governing body of a public agency shall provide the time for holding regular meetings by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body. Unless otherwise provided for in the act under which the public agency was formed, meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction. If at any time any regular meeting falls on a holiday, such regular meeting shall be held on the next business day. If, by reason of fire, flood, earthquake, or other emergency, there is a need for expedited action by a governing body to meet the emergency, the presiding officer of the governing body may provide for a meeting site other than the regular meeting site and the notice requirements of this chapter shall be suspended during such emergency. It shall not be a violation of the requirements of this chapter for a majority of the members of a governing body to travel together or gather for purposes other than a regular meeting or a special meeting as these terms are used in this chapter: PROVIDED, That they take no action as defined in this chapter.

[1983 c 155 § 2; 1973 c 66 § 1; 1971 ex.s. c 250 § 7.]

42.30.075

Schedule of regular meetings — Publication in state register — Notice of change — "Regular" meetings defined.

State agencies which hold regular meetings shall file with the code reviser a schedule of the time and place of such meetings on or before January of each year for publication in the Washington state register. Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date.

For the purposes of this section "regular" meetings shall mean recurring meetings held in accordance with a periodic schedule declared by statute or rule.

[1977 ex.s. c 240 § 12.]

Notes:

Effective date -- Severability -- 1977 ex.s. c 240: See RCW [34.08.905](#) and [34.08.910](#).

Public meeting notices in state register: RCW [34.08.020](#).

42.30.080

Special meetings.

(1) A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, by fax, or by electronic mail to each member of the governing body. Written notice shall be deemed waived in the following circumstances:

(a) A member submits a written waiver of notice with the clerk or secretary of the governing body at or prior to the time the meeting convenes. A written waiver may be given by telegram, fax, or electronic mail; or

(b) A member is actually present at the time the meeting convenes.

(2) Notice of a special meeting called under subsection (1) of this section shall be:

(a) Delivered to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of such special meeting or of all special meetings;

(b) Posted on the agency's web site. An agency is not required to post a special meeting notice on its web site if it (i) does not have a web site; (ii) employs fewer than ten full-time equivalent employees; or (iii) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site; and

(c) Prominently displayed at the main entrance of the agency's principal location and the meeting site if it is not held at the agency's principal location.

Such notice must be delivered or posted, as applicable, at least twenty-four hours before the time of such meeting as specified in the notice.

(3) The call and notices required under subsections (1) and (2) of this section shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body.

(4) The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

[2012 c 188 § 1; 2005 c 273 § 1; 1971 ex.s. c 250 § 8.]

42.30.090

Adjournments.

The governing body of a public agency may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW

42.30.080 for special meetings, unless such notice is waived as provided for special meetings.

Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to

state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

[2012 c 117 § 125; 1971 ex.s. c 250 § 9.]

42.30.100

Continuances.

Any hearing being held, noticed, or ordered to be held by a governing body at any meeting may by order or notice of continuance be continued or reconvened to any subsequent meeting of the governing body in the same manner and to the same extent set forth in RCW

42.30.090 for the adjournment of meetings.

[1971 ex.s. c 250 § 10.]

42.30.110

Executive sessions.

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW

42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider in the case of innovate Washington, the substance of grant or loan applications and grant or loan awards if public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

[2011 1st sp.s. c 14 § 14; 2010 1st sp.s. c 33 § 5; 2005 c 424 § 13; 2003 c 277 § 1; 2001 c 216 § 1; 1989 c 238 § 2; 1987 c 389 § 3; 1986 c 276 § 8; 1985 c 366 § 2; 1983 c 155 § 3; 1979 c 42 § 1; 1973 c 66 § 2; 1971 ex.s. c 250 § 11.]

Notes:

Effective date -- 2011 1st sp.s. c 14: See RCW [43.333.901](#).

Captions not law -- Liberal construction -- Severability -- Effective dates -- 2005 c 424: See RCW [43.350.900](#) through [43.350.903](#).

Severability -- Effective date -- 1987 c 389: See notes following RCW [41.06.070](#).

Severability -- 1986 c 276: See RCW [53.31.901](#).

42.30.120

Violations — Personal liability — Civil penalty — Attorneys' fees and costs.

(1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him or her, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person. A violation of this chapter does not constitute a crime and assessment of the civil penalty by a judge shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

(2) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorneys' fees, incurred in connection with such legal action. Pursuant to RCW

[4.84.185](#), any public agency who prevails in any action in the courts for a violation of this chapter may be awarded reasonable expenses and attorney fees upon final judgment and written findings by the trial judge that the action was frivolous and advanced without reasonable cause.

[2012 c 117 § 126; 1985 c 69 § 1; 1973 c 66 § 3; 1971 ex.s. c 250 § 12.]

42.30.130

Violations — Mandamus or injunction.

Any person may commence an action either by mandamus or injunction for the purpose of stopping violations or preventing threatened violations of this chapter by members of a governing body.

[1971 ex.s. c 250 § 13.]

42.30.140

Chapter controlling — Application.

If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter

[34.05 RCW](#), the Administrative Procedure Act; or

(4)(a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

[1990 c 98 § 1; 1989 c 175 § 94; 1973 c 66 § 4; 1971 ex.s. c 250 § 14.]

Notes:

Effective date -- 1989 c 175: See note following [RCW 34.05.010](#).

Drug reimbursement policy recommendations: [RCW 74.09.653](#).

Mediation testimony competency: [RCW 5.60.070](#) and [5.60.072](#).

42.30.200

Governing body of recognized student association at college or university — Chapter applicability to.

The multimember student board which is the governing body of the recognized student association at a given campus of a public institution of higher education is hereby declared to be subject to the provisions of the open public meetings act as contained in this chapter, as now or hereafter amended. For the purposes of this section, "recognized student association" shall mean any body at any of the state's colleges and universities which selects officers through a process approved by the student body and which represents the interests of students. Any such body so selected shall be recognized by and registered with the respective boards of trustees and regents of the state's colleges and universities: PROVIDED, That there be no more than one such association representing undergraduate students, no more than one such association representing graduate students, and no more than one such association representing each group of professional students so recognized and registered at any of the state's colleges or universities.

[1980 c 49 § 1.]

42.30.210

Assistance by attorney general.

The attorney general's office may provide information, technical assistance, and training on the provisions of this chapter.

[2001 c 216 § 2.]

42.30.900

Short title.

This chapter may be cited as the "Open Public Meetings Act of 1971".

[1971 ex.s. c 250 § 16.]

42.30.910

Construction — 1971 ex.s. c 250.

The purposes of this chapter are hereby declared remedial and shall be liberally construed.

[1971 ex.s. c 250 § 18.]

42.30.920

Severability — 1971 ex.s. c 250.

If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1971 ex.s. c 250 § 19.]



CITY OF TACOMA

CODE OF ETHICS

Effective January 1, 1983
Amended October 2, 1990
Amended October 26, 1993
Amended May 3, 1994
Amended January 9, 2001
Amended June 27, 2006
Amended January 22, 2008
Amended August 4, 2008
Amended March 8, 2011

CITY OF TACOMA

CODE OF ETHICS

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SECTIONS:

- 1.46.010 Purpose.
- 1.46.020 Definitions.
- 1.46.025 Jurisdiction.
- 1.46.030 Prohibited conduct.
- 1.46.040 Complaint process.
- 1.46.045 Board of Ethics.
- 1.46.050 Penalties for noncompliance.
- 1.46.060 Where to seek review.
- 1.46.070 Severability.
- 1.46.080 Financial disclosure.

1.46.010 PURPOSE.

- A. The policy of the City of Tacoma is to uphold, promote, and demand the highest standards of ethics from all City officers and employees, whether elected, appointed, or hired. City officers and employees shall maintain the utmost standards of personal integrity, truthfulness, honesty, and fairness in carrying out their public duties; avoid any improprieties in their roles as public servants, including the appearance of impropriety; and never use their City position or powers for improper personal gain.
- B. The purpose for this policy is to protect the public against decisions that are affected by undue influence, conflicts of interest, or any other violation of this Code of Ethics.
- C. Construction. It is the intention of the City Council that this chapter be liberally construed within the confines of chapter 42.23 RCW and Section 6.6 of the Tacoma City Charter to accomplish this purpose. Those construing this chapter should be guided by common sense and practicality. This Code of Ethics is supplemental to state law, chapter 42.23 RCW, as now or hereafter amended.

1.46.020 DEFINITIONS.

The following words and phrases as used in this chapter, unless the context clearly indicates otherwise, shall have the following meanings:

- A. "Board of Ethics" ("Board") means the Board authorized to hear and decide complaints of violations of this Code of Ethics by current and former Covered Officials pursuant to Section 1.46.045 TMC and as that section may be hereinafter amended.
- B. "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, consultant, holding company, joint stock company, receivership, trust, or any legal entity organized for profit.
- C. "City-elected official" means any person who is elected at a general or special election to any public office of the City of Tacoma and any person appointed to fill a vacancy in any such office.
- D. "City officer or employee" means a current or former City-elected official; an appointed member of a City Board, Commission, Committee, task force, or other multi-member body; and any City employee.
- E. "Compensation" means payment in any form for real or personal property or services of any kind.
- F. "Covered Official" means a current or former City-elected official; the City Manager; the Director of Public Utilities; a member of the Public Utility Board; or an appointed member of a City Board, Commission, Committee, task force, or other multi-member body.
- G. "Gift" means a voluntary transfer of real or personal property of any kind or the voluntary rendition of services of any kind without consideration of equal or greater value.
- H. "Hearing Examiner" shall mean the duly appointed and qualified Hearing Examiner or Deputy Examiner of the City of Tacoma, or his or her designee, who shall possess qualifications comparable to those required of the Hearing Examiner and Deputy Examiner pursuant to Chapter 1.23 TMC.
- I. "Immediate family" shall have the meaning set forth in Section 1.24.130 TMC and as that section may be hereinafter amended.
- J. "Person" means any individual or corporation, business, or other entity, however constituted, organized, or designated.

1.46.025. JURISDICTION:

The following four groups of people are bound by the Code of Ethics:

- A. Current Covered Officials;
- B. Former Covered Officials;
- C. Current City officers and employees; and
- D. Former City officers and employees who come back as contractors.
- E. Jurisdiction over complaints of violations of this code against current and former Covered Officials lies with the Board of Ethics.

- F. Jurisdiction over complaints of violation of this code against current and former City officers and employees, other than current or former Covered Officials, lies with the City Manager or Director of Utilities and, in the event of request for formal hearing following disposition by the City Manager or Director of Utilities, with the Hearing Examiner.

1.46.030 PROHIBITED CONDUCT.

The following shall constitute violations of this Code of Ethics:

- A. **Beneficial Interests in Contracts Prohibited.** No City officer or employee shall participate in his or her capacity as a City officer or employee in the making of a contract in which he or she has a financial interest, direct or indirect, within the meaning of Section 6.6 of the Charter of the City of Tacoma or performs in regard to such a contract some function requiring the exercise of discretion on behalf of the City. Except, that this prohibition shall not apply where the City officer or employee has only a remote interest in the contract and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract and thereafter the City Council authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer(s) having the remote interest. For purposes of this section, a “remote interest” means:
 - 1. That of a nonsalaried officer of a nonprofit corporation;
 - 2. That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
 - 3. That of a landlord or tenant of a contracting party;
 - 4. That of a holder of less than 1 percent of the shares of a corporation, limited liability company, or other entity which is a contracting party.
- B. **Beneficial Influence in Contract Selection Prohibited.** No City officer or employee shall influence the City's selection of or its conduct of business with a corporation, person, or firm having or proposing to do business with the City if the City officer or employee has a financial interest in or with the corporation, person, or firm, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted in the official minutes or similar records of the City prior to formation of the contract, as defined in the preceding section.
- C. **Representation of Private Person at City Proceeding Prohibited.** No City officer or employee shall appear on behalf of a private person, other than himself or herself or an immediate family member or except as a witness under subpoena, before any regulatory governmental agency or court of law in an action or proceeding to which the City or a City officer or employee in an official capacity is a party, or accept a retainer or compensation that is contingent upon a specific action by the City.
- D. **Certain Private Employment Prohibited.** No City officer or employee shall engage in or accept private employment or render services for any private interest when such employment or service is incompatible with the proper

discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.

- E. **Beneficial Interest in Legislation Prohibited.** No City officer or employee, in appearing before the City Council or when giving an official opinion before the City Council, shall have a financial interest in any legislation coming before the City Council and participate in discussion with or give an official opinion to the City Council, unless such interest is a remote interest and where the fact and extent of such interest is disclosed and noted on the record of the City Council, or similar records of the City, prior to consideration of the legislation by the City Council.
- F. **Continuing Financial Interest.** Where a City officer or employee has a substantial ongoing financial relationship with a corporation, firm, or person seeking a contract, or proposing to do business with the City, such City officer or employee shall not:
 - 1. Influence or participate in the City's contract selection of or conduct business with such corporation, firm, or person; nor
 - 2. Influence or participate in the City's contract selection of, or conduct business with, a corporation, firm, or party competing against a party that a City officer or employee has such a substantial ongoing financial relationship. For purpose of this section, a substantial ongoing financial relationship is defined as: expanding beyond just a formal contractual relationship. Rather it encompasses any financial interest, direct or indirect, where a City officer or employee is involved in a client-service relationship in which:
 - a. the City officer or employee receives a substantial portion of his or her revenue or like compensation through such relationship, whether received through his or her corporation, firm, or as an individual; or
 - b. Such client-service relationship is likely to continue to provide considerable potential business or has provided substantial business in the past. This does not include prior financial relationships that are so far removed in time or rare in frequency as to be insignificant.
- G. **Disclosure of Confidential Information Prohibited.** No City officer or employee shall disclose or use any confidential, privileged, or proprietary information gained by reason of his or her official position for a purpose which is for other than a City purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge or which is available to the public on request.
- H. **Improper Use of Position Prohibited.** No City officer or employee shall knowingly use his or her office or position to secure personal benefit, gain or profit, or use his or her position to secure special privileges or exceptions for himself, herself, or for the benefit, gain, or profits of any other persons.
- I. **Improper Use of City Personnel Prohibited.** No City officer or employee shall employ or use any person under his or her official control or direction for the personal benefit, gain, or profit of the City officer or employee or another.
- J. **Improper Use of City Property Prohibited.** No City officer or employee shall use City-owned vehicles, equipment, materials, money, or property for personal or private convenience or profit. Use is restricted to such services as are

available to the public generally, for the authorized conduct of official business, and for such purposes and under such conditions as are approved by administrative order of the City Manager or Director of Public Utilities; provided, that the use of a City vehicle by a City officer or employee participating in a carpooling program established by the City and for a purpose authorized under such program shall not be considered a violation of this section or of any other provision of this chapter.

- K. **Acceptance of Compensation, Gifts, Favors, Rewards, or Gratuity Prohibited.** No City officer or employee may, directly or indirectly, give or receive, or agree to give or receive, any compensation, gift, favor, reward, or gratuity for a matter connected with or related to the City officer or employee's services with the City of Tacoma, except this prohibition shall not apply to:
1. Attendance of a City officer or employee at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of City business or where official attendance by the City officer or employee as a City representative is appropriate;
 2. An award publicly presented in recognition of public service; or
 3. Nominal promotional items including, but not limited to, items such as ball point pens, calendars, wearing apparel, or food items which cannot reasonably be presumed to influence the vote, action, or judgment of the City Official or be considered as part of a reward for action or inaction.
- L. **Commission of Acts of Moral Turpitude.** No City officer or employee shall commit any act of moral turpitude or dishonesty relating to his or her duties or position as a City officer or employee or arising from business with the City. Conviction of a felony or a misdemeanor involving moral turpitude, the nature of which demonstrates lack of fitness for the position held, is conclusive evidence of a violation of this Code of Ethics.
- M. **Failure to Comply with Section 1.46.080 TMC.** Failure to comply with the requirements of Section 1.46.080 TMC (Financial Disclosure for Covered Officials) is a violation of this Code of Ethics.
- N. **Impermissible Conduct After Leaving City Service.**
1. ***Disclosure of Privileged, Confidential, or Proprietary Information Prohibited.*** No former City officer or employee shall disclose or use any privileged, confidential, or proprietary information gained because of his or her City employment or office.
 2. ***Participation in City Matters Prohibited.*** No former City officer or employee shall, during the period of one year after leaving City office or employment:
 - a. Assist any person in matters involving the City if, while in the course of duty with the City, the former City officer or employee was officially involved in the matter or personally and substantially participated in the matter or acted on the matter.
 - b. Represent any person as an advocate in any matter in which the former City officer or employee was involved while a City officer or employee; or

- c. Participate as or with a bidder, vendor, or consultant in any competitive selection process for a City contract in which he or she assisted the City in determining the project or work to be done or the process to be used.
3. **Duty to Inform.** Whenever a current City officer or employee wishes to contract with a former City officer or employee for expert or consultant services within one year of the latter leaving City service or office, advance notice shall be given to the City Manager for matters concerning City government or to the Director of Public Utilities for matters concerning the Department of Public Utilities about the proposed agreement. The City Manager or Director of Utilities shall evaluate the proposed contract to determine if there is a conflict with this Code of Ethics. If there is a question of this nature, the City Manager or Director of Utilities may submit the matter to the Board of Ethics for an opinion. If the proposed contract is found to present a conflict with this Code, it shall not be allowed.
4. **Exceptions.** The prohibitions of subsections 2.a and 2.b of this section shall not apply to a former City officer or employee acting on behalf of a governmental agency, unless such assistance or representation is adverse to the interest of the City.

1.46.040 COMPLAINT PROCESS.

- A. A complaint alleging that this Code of Ethics has been violated may be filed with any City officer or employee.
- B. A complaint alleging that the Code of Ethics has been violated by a current or former Covered Official shall be referred to the Board of Ethics for disposition pursuant to the procedures set forth in Section 1.46.045 TMC.
- C. A complaint alleging that the Code of Ethics has been violated by any City officer or employee (other than a Covered Official) shall be referred to the City Manager or the Director of Public Utilities, as appropriate. The City Manager or the Director of Public Utilities shall promptly designate an individual to conduct an investigation of the complaint.
- D. The person designated by the City Manager or the Director of Public Utilities to conduct an investigation of a complaint involving any City officer or employee (other than a Covered Official) shall complete the investigation and prepare written findings, conclusions, and recommended disposition within 60 days of the date the complaint was received by the City, unless an extension is granted in writing by either the City Manager or the Director of Public Utilities. A copy of the investigator's written findings, conclusions, and recommended disposition shall be provided to the City Manager or the Director of Public Utilities, as appropriate.
- E. Within five business days of receipt of the investigator's written findings, conclusions, and recommended disposition, the City Manager or the Director of Public Utilities, as appropriate, shall cause to be prepared a written disposition of the complaint. Copies of the recommended disposition and the investigation findings and conclusions shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses. Additional copies of the recommended disposition shall be forwarded to the

investigator, the City Attorney or the City Attorney's designee, and the person(s) responsible for acting on the recommended disposition. The recommended disposition shall not be implemented until the time for requesting a formal hearing, pursuant to subsection F below, has lapsed and no such hearing has been requested. A disposition involving discipline shall not be implemented except upon compliance with the predisciplinary procedures to which the City officer or employee is entitled.

- F. The City officer or employee (other than a Covered Official) complained against may, within ten business days following the date of the disposition, finding a violation of this Code of Ethics, request in writing a formal hearing before the Hearing Examiner. In the event a formal hearing is requested, the Hearing Examiner shall conduct the hearing process in a manner consistent with the procedures set forth in Chapter 1.23 TMC and as such chapter may be hereinafter amended.
- G. Within 30 days after the conclusion of the hearing, the Hearing Examiner shall, based upon a preponderance of the evidence, prepare findings of fact, conclusions of law, and his or her order or recommendation. Copies of the Hearing Examiner's findings, conclusions, and order or recommendation shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses. Additional copies of the findings, conclusions, and order shall be forwarded to the investigator, the City Attorney or the City Attorney's designee, and the person(s) or body responsible for acting on the Hearing Examiner's order or recommendation.

1.46.045 BOARD OF ETHICS.

- A. **Purpose.** The Board of Ethics shall receive, investigate, and make recommendations for disposition of complaints of violations of the Code of Ethics by current and former Covered Officials.
- B. **Composition.**
 - 1. The Board of Ethics shall be composed of five regular members who are residents of the City appointed by majority vote of the City Council upon recommendation by the City Council Appointments Committee. Members of the Board shall serve without compensation and shall not, except for their appointment as a member of the Board of Ethics, be a City officer or employee.
 - 2. Board members shall serve staggered terms of three years. The initial terms shall be one year for the first member appointed, two years for the second and third members appointed, and three years for the fourth and fifth members appointed. No person shall serve more than two consecutive full terms as a member of the Board. A member shall hold office until a member's successor is appointed; provided, that the term of the successor shall be deemed to have commenced upon the expiration of the term of the member holding over and shall be considered a full term.
 - 3. Appointments to a vacant position shall be made in the same manner as appointments for a full term.

4. The Board shall select its own Chair and Vice Chair from among its members.
5. The City Manager shall provide such staff support for the Board as the City Council determines to be necessary for the Board to fulfill its duties.
6. The Board's meetings shall be open to the public in accordance with the Open Public Meetings Act.
7. The City Attorney is designated to be the legal advisor for the Board, except that the City Attorney is not authorized to advise the Board in any matter if doing so would create a conflict for the City Attorney under the Rules of Professional Conduct.

C. Duties and Powers of the Board.

1. Adopt written rules governing its procedures and providing for the holding of regular and special meetings, which rules shall be subject to the approval of the City Council and a copy of the rules shall be filed with the City Clerk; and
 2. Conduct hearings, as needed, to hear and decide specific cases in which a violation of the Code of Ethics by a current or former Covered Official is alleged, whether such cases arise from a complaint or are brought on the Board's own motion; and
 3. Subpoena witnesses, compel their attendance, administer oaths, take the testimony of a person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Board; and
 4. No later than March 1 of each year, submit an annual report to the City Council concerning its action in the preceding year. The report shall contain a summary of its decisions and opinions, both open and confidential, and the Board shall make any alterations in the summaries necessary to prevent disclosure of any confidential information pertaining to any individual or to any organization if the disclosure could lead to the disclosure of the identity of a person who is entitled to confidentiality; and
 5. When circumstances make it necessary to do so, retain outside legal counsel and other experts, as needed, after solicitation of recommendations from the City Attorney (unless the need to retain outside counsel is caused by a conflict involving the City Attorney's Office); and
 6. Serve as legal custodian of the Board's records and accept, file, maintain, and administer, in accordance with all applicable laws, any information related to the purposes of this Code of Ethics; and
 7. Make recommendations to the City Manager and to the City Council for amendments to this chapter, the City Charter, and for such other legislation affecting the subject matter of this chapter as the Board of Ethics may deem necessary or desirable.
- D. All opinions and recommendations of the Board shall be filed with the City Clerk and are open to public inspection.

E. The Board may, in addition to its other duties:

1. Respond, as it deems appropriate, to requests from City officials and employees for opinions regarding prospective conduct. Provided, however, that neither a request for an opinion nor the making of a statement concerning a potential conflict of interest made by a Covered Official in the course of abstaining from voting or making a motion of self-recusal shall create a presumption or inference that such Covered Official has a personal interest in the matter about which the opinion was requested.
2. Render and publish opinions on any matter within the scope of the Board's authority which it may deem appropriate. The Board may initiate opinions on its own motion or upon request; any formal opinion shall be in writing. Rendering any such opinion shall not preclude the Board from considering subsequent complaints on the matter addressed in the opinion.
3. Refer a complaint received by the Board to other legal authority for investigation or criminal prosecution, as may be appropriate. Before any such referral, the Board shall consult with the City Attorney (or other legal advisor, if a conflict prevents the City Attorney from advising the Board). If the Board determines that it may, under the Code of Ethics, have jurisdiction over a complaint that also alleges conduct that could be a violation of another code, statutory, or regulatory provision, the Board may stay its consideration of the complaint pending the outcome of any official investigation or criminal prosecution either on its own motion or at the request of the appropriate legal authority.

F. Complaint Process of the Board of Ethics.

1. Any City official knowingly receiving a complaint that the Code of Ethics has been violated by a Covered Official shall promptly forward the complaint to the Board or the Board's designee.
2. The Board, upon receipt of the complaint, shall acknowledge receipt of the complaint, forward the complaint simultaneously to the person who is complained against, if known, and the City Attorney, and promptly meet and review the complaint. As soon as practicable after giving due consideration to a complaint the Board shall either:
 - a. dismiss the complaint based on any of the following grounds: (i) the complaint does not allege facts sufficient to constitute a violation of the Code of Ethics; or (ii) the Board has no jurisdiction over the matter; or (iii) the failure of the complainant to cooperate in the Board's review and consideration of the complaint; or
 - b. determine that: (i) the complaint alleges facts which, if found to be true, would be sufficient to constitute a violation of the Code of Ethics; or (ii) that further information must be presented for the Board to determine if a violation of the Code of Ethics has occurred.
3. In order to establish the factual record necessary for the Board to determine whether a violation of the Code of Ethics has occurred, the Board can either appoint an investigator to conduct an investigation of the facts or convene a hearing at a future date certain.

- a. If the Board appoints an investigator, the investigator shall interview witnesses, as well as procure and examine relevant documents and records. The investigator shall complete the investigation and prepare written findings within 60 days of the date the complaint was received by the Board, unless an extension is granted in writing by the Board. A copy of the investigator's written findings shall be provided to the Board. Within ten business days of receipt of the investigator's written findings, the Board shall convene to review the complaint and the findings of the investigator. After due deliberation on the findings presented by the investigator, the Board may take one of the following actions.
 - i. Determine that no violation of the Code of Ethics has occurred.
 - ii. Make a preliminary finding that a violation of the Code of Ethics has occurred. If the Board, based on the findings presented by the investigator, finds that a violation of the Code of Ethics has occurred, it shall issue preliminary findings of fact and conclusions of law, and the person complained against shall have ten days following the receipt of the Board's preliminary findings to request a hearing before the Board to present any additional testimony, statements, or documentary evidence, as may be relevant. At such a hearing, the Board may call additional witnesses or consider additional documentary evidence. After final deliberations on the investigator's findings, as well as any additional testimony, statements, or documents presented at the hearing, the Board shall determine whether or not a violation of the Code of Ethics has occurred.
4. A complaint dismissed under subsection F(2) shall be deemed to be dismissed with prejudice. A complaint dismissed by Board under subsections F(2)(a)(i) or (ii) will not be reconsidered if resubmitted by the complainant unless factual allegations not present in the original complaint are presented. A complaint dismissed by the Board under subsection F(2)(a)(iii) cannot be resubmitted.
5. After the Board has made its final determination under subsection F(2)(a) or F(3)(a) or (b), the Board shall issue its written findings of fact and conclusions of law, along with its recommended disposition (if applicable). The Board may, in addition, issue any additional reports, opinions, or recommendations as it deems advisable under the circumstances. All such reports shall be reviewed by the City Attorney (or independent legal counsel in the event that a conflict of interest prevents the City Attorney from conducting the review) prior to their issuance. The Board's conclusions shall be based on the preponderance of the evidence standard.
6. Copies of the written findings of fact, conclusions, and recommended disposition of the Board of Ethics shall be forwarded by certified mail to the complaining party and the party complained against at their last known addresses. Additional copies of the written findings of fact, conclusions, and recommended disposition of the Board of Ethics shall be forwarded to the investigator, the City Attorney (or independent legal counsel), the City Council for matters involving a City-elected official, an

appointed member of the Public Utilities Board or other City board, commission, committee, task force or other multimember body, or the City Manager and the Public Utilities Board, for matters involving the Director of Public Utilities. All other recommendations shall be forwarded, as is appropriate, by the City Attorney.

- G. **Limitations on the Board of Ethics' Power.** The Board does not have the authority to reverse or otherwise modify a prior action of a City officer or employee. If the Board finds a prior action of a City officer or employee to have been performed in violation of the Code of Ethics, the Board may advise the appropriate party or parties that the action should be reconsidered. Upon such advice by the Board, the action shall be reconsidered by the appropriate person or public body. If the Board determines an existing City contract to be in violation of the Code of Ethics after such determination and advice from the Board, the City may void or seek termination of the contract if legally permissible.
- H. **Ex Parte Communications.** After a complaint has been filed and during the pendency of a complaint before the Board, no member of the Board may communicate directly or indirectly with any party or other person about any issue of fact or law regarding the complaint, except that:
1. The members of the Board may obtain legal advice from the City Attorney or, in the event of a conflict, with independent legal counsel and may discuss the complaint with their staff.
 2. The members of the Board may discuss the complaint at a lawfully conducted meeting. Board deliberations concerning complaints are subject to exemption from the Open Public Meetings Act, as permitted by law. If any person attempts to communicate with a Board member regarding the pending complaint, the Board member shall report the substance of the communication to the Board on the public record at the next regular meeting of the Board.
 3. The Board shall not take testimony or comments from any person regarding a complaint except as presented in an investigative report or in the course of a duly noticed public hearing.
- I. **Statute of Limitations.** No action may be taken on any complaint which is filed later than three years after a violation of the Code of Ethics is alleged to have occurred.

1.46.050 PENALTIES FOR NONCOMPLIANCE.

- A. The Board may recommend and the Tacoma Public Utility Board or City Council, as appropriate, may impose upon any Covered Official found, by a preponderance of the evidence, to have violated any provision of this Code of Ethics any of or a combination of the following penalties. The City Manager or Director of Public Utilities may similarly impose upon any City officer or employee (other than Covered Officials) found by a preponderance of evidence to have violated any provision of the Code of Ethics any of or a combination of the following penalties:
1. A cease and desist order as to violations of this Code of Ethics;

2. An order to disclose any reports or other documents or information requested by the City Manager, the Director of Public Utilities, the Hearing Examiner, the Public Utility Board, the City Council, or the Board of Ethics;
 3. Discipline, up to and including termination or removal from any position, whether paid or unpaid, excluding elected positions, only after notice and hearing as provided by law. The predisciplinary procedure set forth in the provisions of the Tacoma City Charter and Section 1.24.955 TMC, and as such may be hereinafter amended, shall be followed for permanent employees in the Classified City Service.
 4. Exclusion from bidding on City contracts for a period of up to five years; and/or
 5. Termination or invalidation of contract(s) entered into in violation of the Code of Ethics, only if such contract(s) provide for termination in the event of a Code of Ethics violation.
- B. Removal—Member of Board, Commission, or Committee.** In addition to any other penalties that may be imposed under this chapter, the City Council may remove any appointed member of a City board, commission, committee, task force, or other multimember body, including the Public Utility Board, if that member is found by the Board of Ethics to have violated the Code of Ethics. The recommendation of the Board of Ethics shall be subject to review by the City Council. The City Council's final decision shall be based on evidence in the record. The provisions of this section shall supplement any other procedures required by the Tacoma City Charter or other applicable state or federal law for removal of such persons.
- C.** In addition to any other penalties set forth in this chapter, any current or former City-elected official against whom a complaint has been made and whom the City Council determines to be found by a preponderance of the evidence to have violated the Code of Ethics may be subject to any one or more of the following actions by a majority vote of the City Council:
1. **Admonition.** An admonition shall be a verbal statement approved by the City Council and made to the individual by the Mayor, or his or her designee, or if the complaint is against the Mayor, the Deputy Mayor, or his or her designee.
 2. **Reprimand.** A reprimand shall be administered to the individual by a resolution of reprimand by the City Council. The resolution shall be prepared by the City Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor. If the City-elected official objects to the content of such resolution, he or she may file with the Mayor or, if the complaint is against the Mayor, the Deputy Mayor, a request for review stating the reasons for his or her objections and asking for a review of the content of the resolution of reprimand by the City Council. The City Council shall review the resolution of reprimand in light of the City Council's findings and the request for review and may take whatever action, if any, appears appropriate under the circumstances. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law.

3. **Censure.** A resolution of censure shall be a resolution read personally to the individual in public. The resolution shall be prepared by the City Council and shall be signed by the Mayor or, if the complaint is against the Mayor, the Deputy Mayor. The City-elected official shall appear at a City Council meeting at a time and place directed by the City Council to receive the resolution of censure. Notice shall be given at least 20 calendar days before the scheduled appearance, at which time a copy of the proposed resolution of censure shall be provided to the City-elected official. Within seven days of receipt of the notice, if the City-elected official objects to the contents of such resolution, he or she may file with the Mayor or, if the complaint is against the Mayor, the Deputy Mayor, a request stating the reasons for objections and asking for a review of the content of the proposed resolution of censure by the City Council. Such request will stay the administration of the censure. The City Council shall review the proposed censure in light of the City Council's findings and the request for review and may take whatever action, if any, appears appropriate under the circumstances. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law. If no such request is received, the resolution of censure shall be administered at the time and place set. It shall be read publicly, and the City-elected official shall not make any statement in support of or in opposition thereto, or in mitigation thereof. A censure shall be administered at the time it is scheduled whether or not the individual appears as required.
4. **Other penalties.** Budget reduction or restriction, loss of seniority, loss of a committee assignment, or loss of appointment as a representative of the City on any board, commission, committee, task force, or other multi-member bodies which require an appointment or confirmation of an appointment by the City Council.

If the Covered Official objects to the action taken by the City Council, he or she may file a request with the Mayor or, if the complaint is against the Mayor, the Deputy Mayor, stating the reasons for his or her objections and asking for a review of the action taken. The City Council shall review the action taken in light of the City Council's findings and request for review and may take whatever further action, if any, appears appropriate under the circumstances. The action of the City Council shall be final and not subject to further review or appeal except as may be otherwise provided by law.

1.46.060 WHERE TO SEEK REVIEW.

- A. **Cease and Desist Order.** If ordered to cease and desist violating this Code of Ethics, an affected party may seek review by writ of review from the Pierce County Superior Court pursuant to chapter 7.16 RCW or other appropriate legal action.
- B. **Public Disclosure.** If ordered to disclose any documents or papers pursuant to this Code of Ethics, an affected party may seek review by writ of review from the Pierce County Superior Court pursuant to chapter 7.16 RCW or other appropriate legal action.

- C. **Discipline or Removal.** If a City officer or employee is disciplined or removed from office, then the person disciplined or removed from office may seek whatever remedies exist at law or in equity.
- D. **Exclusion from Public Bidding.** If ordered to be excluded from bidding on public contracts and the exclusion actually occurs, the person excluded may seek whatever remedies exist at law or in equity.
- E. **Termination of Contract(s).** If termination of contract(s) is ordered, the person whose contract(s) was/were terminated may seek whatever remedies exist at law or in equity.

1.46.070 SEVERABILITY.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter.

1.46.080 FINANCIAL DISCLOSURE.

All persons presently required to file reports under the public disclosure law of the state of Washington shall, upon assuming City office or position, file with the City Clerk a true and correct copy of the completed report required to be filed under state law.

City Charter Dates and Events of Note

Oct. 16, 1909: Citizens vote out the Mayor-Council Plan in favor of the Commission System which incorporates non-partisan, at-large elections, the direct primary, as well as initiative, referendum and recall provisions.

Feb. 17, 1922: Fred Shoemaker, the outgoing City Controller, calls for replacing the Commission Charter with the City Manager Plan.

March 31, 1925: A "Committee of 100" is formed by the Chamber of Commerce calling for an election of freeholders to frame a City Manager Plan for Tacoma. Nothing comes of it.

March 8, 1927: The Commission Charter is amended through a freeholder process. Shoemaker, elected a freeholder, unsuccessfully argues for a change to the Manager Plan.

Feb. 15, 1934: Another effort is made by civic groups to call for the Manager Plan. A petition with 7,000 plus signatures is presented to the City Council (Commission).

March 14, 1934: An advisory vote in favor of a freeholder election to frame a city manager charter is defeated at the polls. Shoemaker leads support of ill-fated effort. A key issue in the measure's defeat is the supposed threat to the integrity of the City's publicly owned utilities by the corporate interests supporting the Manager Plan.

Oct. 12, 1951: Mayor John Anderson's Charter Advisory Committee calls for a freeholder's election to reform the government by ousting the commission plan. No recommendation on the form of government is made but the Manager Plan is implied. (City embroiled in crime hearings, led by State Senator Albert D. Roselini.)

March, 1952: Voters support electing a freeholders commission to frame a charter by an 83 percent affirmative vote. Fifteen freeholders are elected. Fred Shoemaker is elected by the commission to be chair. He soon puts the freeholders' commission on record in favor of the Manager Plan--before the Central Labor Council can testify. Labor is outraged.

Nov. 1952: A City Manager Plan is approved narrowly at the polls after a contentious campaign against it led by organized labor and its allies. Shoemaker and freeholder E.K. Murray incorporate the separation of three City utilities in the proposed charter--power, water and rail--under a semi-autonomous board and second city administrator. The issue is debated by divided freeholders, but after strong support from business interests and the Electricians Union, it is included in the final draft. The Charter also includes an appointed mayor (by the council), election of council members by plurality vote, at-large and an appointed and advisory civil service board.

May 13, 1953: After a nationwide search, Frank Backstrom is appointed City Manager on a 6-3 vote. Backstrom's appointment is vehemently opposed by organized labor. When asked about labor's opposition, one council member commented: "Labor be damned." Opposition to the Manager Plan begins to intensify.

March 5 1955: A new "Committee of 100" is formed by labor and other manager opponents and files a petition with 18,750 signatures calling for a new freeholder election. The City Council responds by calling for an election on May 10, 1955.

May 10, 1955: The freeholder proposition passes narrowly; most of the new freeholders favor a mayor-council charter. The TNT comes out strongly opposed to the new freeholder group. The newspaper warns of "sinister forces" behind the effort.

March, 1956: The Mayor-Council Charter is defeated by a 54 percent vote. The key defining issue is the charter change consolidating all of the utilities under the mayor and council. This leads E. K. Murray and other opponents of the Manager Plan to oppose the mayor-council proposal.

Feb. 17, 1956: Backstrom is forced to resign; takes post in Wichita. There are calls for the appointment of a local person as city manager.

June, 1956: After a nationwide search, Dave Rowlands is appointed Tacoma's second City Manager by a unanimous vote.

March 1958: Four new council members are elected: Ben Hanson, Ellen Price, Jimmy Porter and Forrest Easterday. All four supported the Mayor-Council Charter in 1956.

Nov. 3, 1958: The new City Council places three substantive charter amendments on the ballot and they are passed by large majorities: direct election of the mayor for a two-year term, election of council members by position and majority vote, and the direct election of a civil service board with broad policy-making authority. The TNT strongly opposes the amendments, to no avail, arguing that they would weaken the Council-Manager Charter.

March 31, 1960: Outgoing council members Clara Goering and Homer Humiston call for the creation of City Council Oversight Committees to assist in making policy decisions. Humiston complains that, to the City Manager, the Council is nothing more than a "statutory nuisance."

Nov. 6, 1967: A.L. "Slim" Rasmussen is elected Mayor, defeating incumbent Harold Tollefson (the outgoing president of the National League of Cities), the key issues: changing the form of government and ousting Dave Rowlands as city manager. Two Rasmussen allies are also elected. Chaos ensues with Rowlands facing a 5-4 council.

Feb. 6, 1968: Advisory vote on changing the form of government loses narrowly.

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Nov. 1969: Rasmussen loses reelection to Gordon Johnson in one of the closest elections in history. Rasmussen's allies win and Rowlands resigns.

Jan.-Sept. 1970: The five-member council majority appoints political ally Floyd Oles city manager without a formal search, without public notice and under a suspension of the rules. A group of Rasmussen supporters meet to propose that strong mayor amendments to be placed on the ballot. Recall charges are filed against the five-member council majority. Signatures are collected and certified and the court orders the Council to place the recall charges on the September primary ballot.

Sept. 20, 1970: The five council members (Cvitanich, Banfield, Dean, Zatkovich and O'Leary) are recalled by a two-to-one vote. All of the charter amendments are defeated except the one clarifying the charter's audit procedures.

Sept. 18, 1973: The first formal Charter Review Committee recommends that the Charter be amended to include: extending the mayor's term to four years, nominating council members by district, establishing term limits and expanding the Civil Service Board to five members. In all, 19 amendments are placed on the ballot by the Council. Eighteen amendments pass.

Nov. 6, 1979 and Sept. 16, 1980: Technical amendments are placed on ballot by the Council and passed.

Nov. 8, 1983: Only two technical amendments are passed after a contentious City Charter Committee review process which focused on the independence of public utilities and the authority of the city council.

Nov. 3, 1992: The Charter Review Committee recommended a number of amendments including the direct election of five council members by district, clarification of civil service provisions and an affirmative action requirement in the anti-discrimination provision. City Manager Ray Corpuz recommended a charter change that would require TPU to use all of the general government's staff functions (article 4.17). Corpuz's proposal is placed on the ballot by a 5-3 Council vote. This becomes a most contentious amendment with TPU and its allies campaigning in opposition. It passed.

Nov. 2, 2004: The Charter Review Committee recommends 21 amendments. The City Council places ten on the ballot including: an annual performance appraisal of the City Manager, a formal review and vote on the Manager's tenure every two years, clarification of the referendum and initiative provisions and a required formal review of the City Charter every ten years. All passed.

Memorandum

To: Charter Review Committee Members
From: Laurie Jenkins, Chair
Date: 1/16/2004
Re: Agenda Sub-Committee Report

The Agenda Sub-Committee met on January 15 to create a plan for committee review of the charter. Based on this meeting, the following approach was developed:

STRUCTURE OF REVIEW

- Based on review of activities of the 1992 Charter Review Committee and areas of interest identified by committee members at the January 8 meeting, the committee will receive presentations on 11 topic areas. These presentations will be made to the committee during February and early March
 1. Overview of Charter (includes presentations from the City Attorney, City Manager and two prior Charter Review Committee Chairs (Mayor Baarsma & Councilman Stenger)
 2. Government Structure (form of government, relationship between executive and legislative branches, term limits)
 3. Initiative/Referenda Process
 4. Preamble
 5. Expenditures (budget process, charter required expenditures, procurement)
 6. Ethics & Accountability
 7. Special Purpose Districts (Library Board, Planning Board, Metro-Parks)
 8. Civil Service Board
 9. Public Utilities Board
 10. Law Enforcement Relationship with Citizens
 11. Good Governance (government transparency, citizen input, access)

- The Committee Chair and staff will identify appropriate speakers to present topics to the Committee.
- The Committee will be broken down into eight sub-committees who will do further research and develop recommendations to the entire committee.
- Each committee member is asked to serve on at least one sub-committee and no more than three sub-committees.
- Committee members will be allowed to sign up for sub-committees based on their interest.
- A sub-committee must have a minimum of four members to be considered viable.
- The chair will appoint the sub-committee chair and vice-chair.
- The committee-of-the-whole will hold a widely advertised televised public hearing on February 5 to gather initial public input. An additional public hearing will likely be scheduled for a Saturday mid-way through the review process and a final public hearing has been tentatively scheduled for April 19 to gather feedback on draft recommendations.
- Committee members will be asked to sign-up to visit specifically identified groups to obtain their input (neighborhood councils, community council, joint/central labor, business districts, etc.). A minimum of two committee members must sign-up for such visits in order to make this approach viable.
- The committee-of-the-whole will receive presentations on the issue of Government Structure (form of government, relationship between executive & legislative branches, term limits, etc.) during the months of January and February. The Committee will decide on its recommendations regarding these topics at its meeting on February 26. Because this decision is likely to have an impact on the recommendations made by other sub-committees it is important that we have a sense of direction on these topics early on.
- Sub-committees will be scheduled for reporting back beginning in mid-March. Reports back should contain conceptual recommendations for topic areas. At each report back, the Charter Review Committee will make a decision on the conceptual

recommendations and direct the appropriate sub-committee to work with staff to develop specific charter amendment language for later presentation.

- Sub-committee reports will be scheduled by the Charter Review Committee Chair based on consultation with the sub-committee chair. Generally, sub-committees should plan on having no more than two weeks of work time following the full committee presentation before their recommendations are due to the full committee.

PUBLIC COMMENT

- Each meeting of the Charter Review Committee will have time set aside for public comment.
- At each regularly scheduled Charter Review Committee meeting, members of the public will be allowed to address the committee one time for a maximum of three minutes on any topics of interest related to charter review.
- The Charter Review Committee Chair, at her discretion, may recognize members of the public for comment at other such times as she deems appropriate.
- At all regularly or specially scheduled public hearing meetings of the Charter Review Committee, members of the public will be allowed to address the committee one time for a maximum of three minutes on any topics of interest related to charter review.
- Charter Review Committee Members should not engage in conversation with members of the public during public comment periods.
- The Charter Review Committee will maximize the use of its web page as well as TV Tacoma (to the extent budgetarily feasible) to encourage members of the public to attend public hearings and provide written comment.
- The Charter Review Committee will send a letter (through staff) to "interested organizations" asking for written comment on the charter review.

Speaking for the Committee

- The Chair will be the public spokesperson for the Charter Review Committee and may request other members to speak on behalf of the committee when she is unavailable.
- Because Committee members will be making presentations and receiving input from groups such as the neighborhood councils and business districts, committee members will need to be prepared to answer questions. Talking points will be developed for committee members to use when speaking to these groups. Talking points will focus on the process the committee is using for review as well as the topic areas we're soliciting input on. Once the committee has decided on an approach that we are going to take to a particular topic, committee members may also present this information. Otherwise, committee members should be careful to separate their specific opinions from those expressed by the committee.

CHARTER REVIEW COMMITTEE SUB-COMMITTEES

Standing Sub-Committees

1. Civil Service Sub-Committee: Will review the charter articles (generally found in Article 6 of the charter) relating to civil service as well as operation of the civil service board.
2. Ethics Sub-Committee: Will review the City's current ethics standards and make recommendations on the necessity of incorporating these or others into the charter. The sub-committee will also review the need for a city ethics commission as well as other accountability measures.
3. Expenditures Sub-Committee: Will review need for charter amendments relating to the city budget process, city procurement and other charter-required expenditures (Article 2.16, for example).
4. Initiative/Referenda Sub-Committee: Will review the need for charter amendments relating to the city initiative and/or referenda process (generally found in article 2.18 – 2.25) as well as provisions for future charter reviews.
5. Law Enforcement Relationship with Citizens Sub-Committee: Will review need for charter amendments relating to citizen oversight and other law enforcement issues. This sub-committee should work closely with the Human Rights Commission committee that is studying citizen oversight as well as the City Council appointed committee reviewing the Brame investigation.
6. Preamble Sub-Committee: Will review the need for amendment and expansion to the preamble of the city charter. The sub-committee should specifically consider ways to expand public comment and suggestions regarding the preamble.
7. Public Utilities Sub-Committee: Will review charter articles relating to public utilities (generally found in Article IV of the charter) and operation of the Public Utilities Board. Special attention should be paid to utility issues that were not raised in prior reviews (for example, CLICK! Network did not exist during prior charter reviews).
8. Special Purpose Districts Sub-Committee: Will review charter articles relating to special purposed districts other than the Public Utilities and Civil Service Boards (generally found in Article 3 of the charter) including, but not limited to, the Tacoma Public Library, Planning Commission and relationship with Metro-Parks.

Other Sub-Committees

1. **Agenda Sub-Committee**: This sub-committee will meet on an as-needed basis to address process and structure issues with regard to the Charter Review.
2. **Good Governance Sub-Committee**: There will be a presentation to the Charter Review Committee on the topic of good governance, government transparency, citizen input and access. There will not be a specific sub-committee assigned to this topic. Rather, each committee will be asked to consider these concepts in their deliberations and recommendations.
3. **Government Structure**: This topic will be covered as a committee-of-the-whole. Once conceptual decisions have been made by the committee, a sub-committee will be appointed to develop specific charter language as necessary. This sub-committee will covers topic areas such as form of government, executive and legislative branch relationships and term limits.

Ground Rules

- Eight members of the committee constitute a quorum for business.
- We will strive for consensus, but majority rules. Minority reports are allowed.
- We will conduct business according to “loosened” Roberts Rules of Order.
- Everyone has an equal voice. Leave status at the door.
- One person talks at a time. Minimize side conversations.
- Meetings begin and end on time.
- Committee members are responsible for getting information on meetings they have missed well in advance of the next meeting. Get committee members materials for review with as much advance notice as possible.
- Committee will review and adjust agenda for next meeting at the end of each meeting.
- Create environment where people can ask and answer difficult questions without judgment.
- Set clear expectations for tasks, assignments, etc.
- Revisit decisions **only** when there is new, compelling information.
- Complete assignments on time.

- Minimize engaging in question and answer discussion with the public during meetings.
- Minimize unnecessary e-mail.
- City staff should use its own discretion in deciding what e-mails to forward to the group. Generally, e-mails that staff receives from the public containing input on the charter review should be forwarded to all committee members. E-mails that are addressed to just one committee member should be forwarded to that committee member.
- Rules for how to use e-mail:

You will be using your personal email addresses to communicate with other committee members or City staff.

If you have any email correspondence regarding Committee topics (whether it be to other Committee members or citizens), remember that this correspondence is a matter of public record. In order to keep a history of this correspondence you should include, on the "cc" line of your email, the official inbox at: charterreview@cityoftacoma.org.

To:	
Cc:	charterreview@cityoftacoma.org
Subject:	

- Have fun!!