

RESOLUTION NO. 2006 -186

Re: ENACTMENT OF PUBLIC RECORDS PROCEDURES

WHEREAS, the Board of Chelan County Commissioners is the legislative authority for the County and is responsible for adoption of legislation necessary for compliance with State and Federal law, and

WHEREAS, the Public Records Act of Washington State, codified at RCW 42.17.250, et. seq., requires counties to enact legislation establishing County Public Records policies and procedures, and

WHEREAS, Chelan County desires to implement and ensure compliance with the provisions of the Public Records Act for the County's public records and for the benefit of the public, and

NOW, THEREFORE, BE IT HEREBY RESOLVED that Exhibit "A" attached hereto and by this reference incorporated herein, establishing Chelan County Code Chapter 1.____, et. seq., establishing a public records policy for Chelan County is and shall be hereby enacted and codified as a new section of the County Code establishing the requirements for County departments, elected officials, boards and commissions for compliance with the Washington State Public Records Act.

DATED at Wenatchee, Washington this 27 day of Dec, 2006

BOARD OF CHELAN COUNTY COMMISSIONERS

Keith W. Goehner
KEITH W. GOEHNER, CHAIR

ABSENT
RON WALTER, COMMISSIONER

Beuel Hawkins
BEUEL HAWKINS, COMMISSIONER
BUELL

ATTEST:

By: Janet K. Merz
JANET K. MERZ, Clerk of the Board

CHELAN COUNTY CODE CHAPTER 1.__ - PUBLIC RECORDS

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1.__.010 Purpose.

The purpose of this Chapter is to provide rules by which the County implements the provisions of the Public Records Act for the County's public records. This policy does not apply to public records of the State of Washington, such as the records of the Administrative Office of the Courts (AOC), the Washington State Patrol (WSP), the Department of Licensing (DOL) and the Department of Corrections (DOC), that may be available to the County's employees by virtue of digital connectivity.

1.__.020 Interpretation and Construction.

The provisions of this Chapter shall be liberally interpreted and construed to promote full access to the County's public records in order to assure continuing public confidence in government: provided, that when making public records available the County shall prevent unreasonable invasions of privacy, shall protect public records from damage, loss, or disorganization, and shall prevent excessive interference with essential government functions.

1.__.030 Public Records Available.

Public records shall be made available for public inspection and copying pursuant to this Chapter, except as otherwise provided by law.

1.__.040 Exempt Records.

The County hereby adopts the list of laws maintained by the Municipal Research Services Center of Washington (MRSC) as the list containing every law, other than

those specifically set forth in the Public Records Act, which the County believes exempts or otherwise prohibits disclosure of specific records or information of the County. Public records and information exempt from disclosure under the Public Records Act or any other law are exempt from disclosure under this Chapter whether or not such exemption is on any list of exemptions adopted, published, or maintained by the County.

1.5__050 Public Records Officers Designated.

A. A Public Records Officer shall serve as the point of contact for members of the public who request disclosure of public records. Each Public Records Officer shall be responsible for implementation of and compliance with this Chapter and the Public Records Act.

B. The Clerk of the Board of County Commissioners is the Public Records Officer for the Board of County Commissioners.

C. Unless otherwise designated by the Board of County Commissioners, the Public Records Officer for all departments, boards and commissions appointed by and reporting to the Board of County Commissioners is the department head, or board or commission chairperson.

D. Unless otherwise designated by an elected official, each elected official is the Public Records Officer for the offices and departments administered by the elected official.

E. The Public Records Officer for the superior court judges shall be the superior court administrator.

F. The Public Records Officer for the district court judges shall be the district court administrator.

G. An Alternate Public Records Officer shall be designated by each appointing authority to act when the designated Public Records Officer is absent or otherwise unavailable to act.

1.__.060 Public Records Requests - How Made.

A. Public records may be inspected and/or copies may be obtained under the following procedures:

1. A request for public records shall be directed to the Public Records Officer for the office or department having custody or control of the requested records. If the location of records is unknown, then the request may be made to the Public Records Officer for the Board of County Commissioners.

2. A request for public records shall be made in writing and include the following information:

- a. The requester's name, mailing address, and telephone number;
- b. The date of the request;
- c. A clear indication that the document is a "Public Records Request;"
- d. Whether the request is to inspect the public records or for copies of public records, or both;
- e. A clear description of the public records requested for inspection and/or copying and the office or department having custody of the public records;
- f. If the request is for a list of individuals, a statement that the list will not be used for any commercial purposes or that the requester is authorized or directed by law to obtain the list of individuals for commercial purposes, with a specific reference to such law; and
- g. Whether the request is for printed or digital copies of the public record.

3. If an elected official or department maintains indexed records specifically for public inspection and copying, the Public Records Officer may permit inspection and copying in response to an oral request. However, the Public Records Officer shall require a written request if the request is for or the response may include any of the following:

- a. A list of individuals;
- b. Categorical requests not identifying a specific public record;
- c. Subjects of current, threatened or potential litigation;
- d. More than 100 pages;
- e. Reproduction of oversized documents such as maps, surveys, large format photographs or color reproduction; or
- f. Public records or information exempt from disclosure.

B. The County shall develop and maintain forms to facilitate public record requests.

C. Requests for inspection or copying of public records maintained by an agency of the State of Washington or another government agency must be made to such agency and will be subject to that agency's rules and regulations, including required forms and fees.

1.___.070 Inspection of Public Records - Where and When.

Public records shall be inspected at the offices of the elected official or department having custody or control of the records. Public records shall be available for inspection from 9:00 a.m. to 12:00 noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays: provided, that there is no obligation to allow inspection immediately upon a demand. A Public Records Officer may request that the person seeking to inspect public records schedule an appointment for inspection.

1. __.080 Response to Public Records Requests.

A. The Public Records Officer shall, to the extent practicable, assist requesters in identifying the public records sought.

B. There is no obligation to allow inspection or provide a copy of a public record on demand.

C. Within five business days after receiving a public record request, the Public Records Officer shall respond to the request in writing. The Public Officer shall make one or more of the following responses:

1. The request for inspection of public records is approved and whether an appointment for inspection needs to be scheduled by the requester;

2. The request for copies of public records is approved and the copies of all requested records are enclosed with the response;

3. The request has been received by the Public Records Officer, that additional time is needed to respond to the request, and stating a reasonable estimate of the time required to respond;

4. The request has been received by the Public Records Officer and the records shall be provided on a partial or installment basis as the records are identified, located, assembled and/or made ready for inspection or copying; or

5. The request is denied, in whole or in part, whether by withholding a requested record or redacting a requested record, stating the specific exemption(s) prohibiting disclosure and a brief explanation of how the exemption applies to each withheld and redacted record.

D. The Public Records Officer shall immediately notify the requester if, after responding to a request for public records and approving the request, the Public Records Officer identifies requested public records or information that are exempt from disclosure.

E. Additional time to respond to a request may be based upon the County's need to:

1. Clarify the intent of the request;

2. Identify, locate, assemble and/or make the records ready for inspection or disclosure;

3. Notify third persons or agencies affected by the request; or

4. Determine whether any of the records or information requested is exempt from disclosure and whether a denial should be made as to all or part of the

request.

F. If a requester fails to clarify the request after receiving a response from the Public Records Officers seeking clarification, the Public Records Officer need not respond further to the request.

G. If the Public Records Officer does not respond in writing within five working days after receipt of a request for public records, the requester shall be entitled to request review by either the Public Record Officer's elected official or department head or by the Prosecuting Attorney.

H. If the Public Records Officer provides an estimate of the time required to respond to the request and the requester believes the amount of time stated is not reasonable, then the requester may request that the Public Record Officer's elected official or department head or the Prosecuting Attorney review the estimate of time.

I. When a request for public records is received that concerns a subject known to involve litigation that is pending, threatened or anticipated, the Public Records Officer shall promptly notify the Prosecuting Attorney of the request. Copies of the request, all correspondence between the Public Records Officer and the requester, and copies of the public records provided to the requester shall be delivered to the Prosecuting Attorney. The requester shall not be charged for copies delivered to the Prosecuting Attorney.

1.__.090 Copying and Delivery Fees.

A. Disallowed Charges.

1. No fee will be charged for the inspection of a public record.
2. No fee will be charged for locating public records in response to a request and making the records available for inspection or copying.
3. No fee will be charged for searching for public records, redacting portions of a record which are exempt from disclosure, or preparing an index of exempt documents.

B. Allowed Charges - Generally.

1. A reasonable fee will be charged to reimburse the County for the costs of providing copies. The Public Records Officer may waive the fee for fewer than 100 pages on the basis that the expense of processing the payment exceeds the costs of providing the copies.
2. A reasonable fee shall be charged to reimburse the County for the cost of

delivering copies of public records to a requester, including the cost of packaging the copies for delivery and the cost of postage or delivery service.

3. Any request for which the response will be more than 100 pages of documents, oversized documents, color photographs or reproductions, tape recordings and computer disks may be sent to a private copying service for copying, in which case the copying fee shall be the actual charge imposed for copying, plus applicable taxes and shipping costs.

4. The Public Records Officer may require that all copying and delivery fees be paid in advance of the release of the copies.

C. Statutory Charges. The fee for searching records, research, and/or providing a copy of a public record may be set by statute. Where the state or federal law sets a fee, that fee will be charged. Court papers (RCW 3.62.060), duplication of electronic tapes of a court proceeding (RCW 3.62.060); traffic accident reports (RCW 46.52.085); and criminal history information (RCW 10.97.100) are examples.

D. Each elected official, department head, board or commission may establish a fee schedule for public records requests made upon them, based on actual expenses, effective upon adoption by legislative authority. Unless a fee is fixed by another federal, state or county ordinance, the following fee schedule is applicable:

8.5"by14" page, or less	\$0.15 per page
Greater than 8.5"x14" page	\$1.00 per page
Greenbar computer printouts	\$1.00 per page
Color Maps	\$5.00 per square foot
Audio in any medium	\$20.00 per item
Fax (8.5" by 11" only)	\$1.00 per page
Postage	Actual expense
Boxes	Actual expense
Envelopes	\$.50 each
Copying Service	Actual expense
Electronic records	See CCC 1.____.140

E. The Public Records Officer may require a deposit in an amount not to exceed ten percent of the estimated cost of providing requested public records. If the Public Records Officer responds to a request on a partial or installment basis, the requester shall be charged for each part or installment responding to the request. If a partial or installment response is not claimed or reviewed by the requester, the Public Records officer is not obligated to fulfill the balance of the request.

1.____.100 Protection of Public Records.

Each Public Records Officer shall, to the extent practicable, insure that records

requested are not misplaced, mistreated, or misfiled by members of the public during inspections and not removed from the County office. Original public records shall not be released to the public for any purpose.

1.__.110 Requested Records - Scheduled for Destruction.

If a public record request is made at a time when a record exists, but the record is scheduled for destruction in the near future, the Public Records Officer shall direct that the record be retained until the request is resolved.

1.__.120 Searching Public Records - Back-up and Security Copies.

In order to prevent excessive interference with essential functions of the County, the County shall not search backup or security systems for copies of public records when the originals of such records have been identified, located and are available for inspection and/or copying.

1.__.130 Review of Denied Request.

A. Any person who objects to the denial of a request for a public record may petition the supervisor of the specific Public Records Officer, or the Prosecuting Attorney for prompt review of such decision by delivering a written request to either the supervisor of the specific Public Records Officer or the Prosecuting Attorney and including all written responses by the Public Records Officer or other County employee denying the request.

B. The supervisor of the specific Public Records Officer or the Prosecuting Attorney shall affirm, modify or reverse the denial in writing within two business days following receipt of the written request for review, or within such other time to which the County department, board or commission and the requestor mutually agree.

C. A requester's administrative remedies shall not be deemed exhausted until the supervisor of the specific Public Records Officer or the Prosecuting Attorney has made a written decision or until the close of the second business day following receipt by the supervisor of the specific Public Records Officer or Prosecuting Attorney of the written request, whichever occurs first.

D. The County shall be deemed to have made a final decision denying a request for public records only after a review conducted under this section has been completed.

1.__.140 Electronic Information.

For purposes of this policy two classifications of electronic information are recognized: electronic records and custom electronic products.

A. Electronic Records. The County produces and maintains data in electronic records to maximize efficiency in fulfilling its basic public service functions. These electronic records relate to the operation and conduct of County government and typically include financial data, property records, property assessment records, filed documents, maps, etc.

1. Electronic records are public records subject to disclosure under the Public Records Act and this Chapter, unless exempt from disclosure under state or federal law or the request is for proprietary data which the County has obtained under a licensing agreement that does not permit disclosure to third parties.

2. At the option of the Public Records Officer, electronic records may be printed and provided in paper format. If the electronic record is large and/or not capable of being printed in an understandable format, then the electronic record may be provided in the digital format in which the record is maintained by the County. The County does not have the obligation to convert an electronic record to a digital format that is different than the format maintained by the County.

3. Fees for providing electronic records in electronic form shall be based on the actual cost of the media used to provide the records. Overhead for information system acquisition and maintenance shall not be included in such fees.

4. The County does not warrant or in any way guarantee the accuracy or completeness of electronic records. Requesters receiving electronic records shall be required to sign an acknowledgement of such disclaimer.

B. Custom Electronic Products. Custom electronic products do not exist at the time of a request. These products must be created by performing any of the following: acquiring data, running custom queries, programming software, testing models, reformatting data, or configuring the product in order to respond to a specific request. Custom electronic products are not public records subject to disclosure.

1. All requests for custom electronic products will be made to the appropriate elected official or department head. If more than one office or department is involved, the request shall be made to the Director of the Information Technology Services Department, who shall refer requests to the appropriate offices and/or departments and provide a coordinated response.

2. A request may be denied for any of the following reasons:

- a. The private sector has the ability to produce the requested product at a competitive price;
- b. The existing workload of the affected staff is such that the requested work cannot be accommodated;
- c. The request is for information that is exempt or prohibited from disclosure or otherwise confidential under state or federal law;

- d. The request is for proprietary data which the County has legally obtained under a license agreement that prohibits disclosure, distribution or publication; or
- e. The County does not have the hardware, software or personnel resources to respond to the request.

3. All fees shall be estimated in writing prior to providing the custom electronic product. Payment of estimated fees must be received before any work will be performed. Fees shall consist of the following:

- a. Design and processing costs to the County, including any charge-back fees paid to another public agency or service bureau;
- b. Actual costs of salary and benefits for the employee or employees required for consulting and/or producing the custom electronic product;
- c. Reasonable overhead charges;
- d. Delivery charges;
- d. Actual costs for magnetic tapes, computer paper, microfiche, disks, and/or other media used to provide the custom electronic product;
- e. Any consulting fee, subcontractor fee or service cost incurred as a result of obtaining secondary services to respond to the request; and
- f. A reasonable charge to defray operational hardware and software acquisition, maintenance and replacement costs.

4. A requester may appeal a denial or the fees required for production of a custom electronic product to the Board of County Commissioners. The appeal shall be made in writing within ten business days after the requester's receipt of a written denial or a statement of the fees required. The appeal must state with specificity the relief sought and the reasons supporting the relief. The Board shall consider the appeal at a public hearing within twenty days after the appeal is received. The offices and departments affected by the appeal shall have an opportunity to respond to the appeal in writing. The requester and the affected offices and departments shall be given notice of the public hearing at least 48 hours in advance and shall have a right to make oral arguments to the Board. All deliberations shall be public unless information discussed is exempt or prohibited from disclosure or otherwise confidential under state or federal law. The decision of the Board shall be in writing and shall be issued within twenty days after the public hearing.

5. A written agreement with the requester shall be required prior to any work on and delivery of a custom electronic product. The written agreement shall, at a minimum, include:

- a. A description of the custom electronic product to be produced;
- b. All Fees;
- c. Whether the custom electronic product will updated and how often;

- d. A warranty disclaimer, as approved by the prosecuting attorney; and
 - e. Any other terms and conditions required by the prosecuting attorney.
6. The County will comply with the terms of all legally acquired software licenses, copyrighted materials and license agreements.
7. The County may at any time enter into an agreement with a public or private entity for sharing in the production costs of a custom electronic product.
8. Once a custom electronic product is produced it becomes a public record subject to the Public Records Act. The County reserves the right to purge the product from its public records in accordance with applicable laws.

1.__.150 Copies of Chapter Available to Public.

Copies of this Chapter and public records request forms shall be available to and provided to the public, without cost, at each County office. Electronic copies shall be made available to the public on the County's website.

General guidelines for Common Exemptions for County Records

Public Records Officers should read the exemptions for public records and consult the lists of provisions that exempt or prohibit disclosure of documents or information on public records on a regular basis. Listed below are some of the subjects of exemptions which may present concerns regarding disclosure. Any denial of a request for public records should refer directly to the reference under state or federal laws. If a request concerns any of the following topics, the Public Records Officer should closely examine the request and the applicable statutes which may prohibit or restrict access and consult with the Prosecuting Attorney prior to responding to a public records request:

- Job application materials;
- Residential addresses and personal phone numbers of employees and volunteers;
- Personnel files of current and retired employees and volunteers, whether or not such files include disciplinary action;
- Private communications of current and former employees;
- Taxpayer information that is private, such as income information;
- Investigative records compiled by law enforcement, probation officers and code enforcement officers;
- Identity of witnesses to crimes or persons who file complaints with investigation and law enforcement agencies, including the sheriff, prosecuting attorney and code enforcement officers;
- Test questions, scoring keys or information for employment examinations;
- Real estate appraisals made for an agency relative to the acquisition or sale of property;
- Valuable designs, formulae, drawings and research data;

- Preliminary drafts, notes, recommendations in which opinions are expressed as part of the deliberative process;
- Attorney work product pertaining to pending, threatened or completed litigation;
- Records, maps or other information identifying the location of archeological sites;
- Complaints and investigative records compiled in connection with claims of discrimination in employment;
- Credit card numbers;
- Records prepared to prevent, mitigate or respond to criminal terrorist acts;
- Information regarding the infrastructure and security of telecommunication networks;
- Medical records and information;
- Information pertaining to victims of crime;
- Information regarding organized crime;
- Traffic accident reports prepared by citizens;
- Industrial insurance claim files and records; and
- Identity of child victims of sexual assault.