

GRAYS HARBOR COUNTY ORDINANCE NO. 370

AN ORDINANCE adding a new chapter to Grays Harbor County Code Title 2 to establish the procedures Grays Harbor County will follow in order to provide full access to public records.

WHEREAS, the purpose of the Public Records Act, Chapter 42.56 RCW, is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government; and

WHEREAS, the Board of County Commissioners find it necessary and advisable to establish procedures Grays Harbor County will follow in order to provide information to persons wishing to request access to public records of Grays Harbor County and establish processes for both requestors and County staff that are designed to best assist members of the public in obtaining such access; and

WHEREAS, the Board of County Commissioners find that the above purposes are furthered by adding a new chapter to Grays Harbor County Code Title 2,

NOW THEREFORE, be it ordained by the Board of County Commissioners of Grays Harbor County, State of Washington:

There is hereby added to Title 2 of the Grays Harbor County Code a new chapter to read as follows:

**SECTION 1: Purpose.**

The purpose of this Chapter is to provide rules by which the County implements and ensures compliance with the provisions of Public Records Act for the County's public records. This Chapter 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.

**SECTION 2: 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 or disorganization, and shall prevent excessive interference with essential government functions.

**SECTION 3: Public Records Available.**

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

**SECTION 4: Exempt Records.**

The County shall publish and maintain a list of laws, other than those specifically set forth in the Public Records Act, which the County believes exempt or otherwise prohibit disclosure of public records or information contained in public records. 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 published and maintained by the County.

**SECTION 5: 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 Clerk of the Board of County Commissioners is the Public Records Officer for all boards and commissions appointed by and reporting to the Board of County Commissioners.
- 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. For all departments not administered by an elected official the department head shall be the Public Records Officer for his or her department.
- 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.

**SECTION 6: 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 upon a standard form promulgated by the Public Records Officer for the County designated by the Board of Commissioners, which shall be made available at the office of each agency's public records officer and on-line at: <http://www.co.grays-harbor.wa.us/> 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.

Electronic mail requests for public records are not permitted. A request for public records must be delivered during normal business hours, sent regular mail or faxed to the Public Records Officer.

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.

**SECTION 7: 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 4:30 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.

**SECTION 8: 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. Each page of the records provided to the requester shall be sequentially numbered or otherwise uniquely identified. 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.

**SECTION 9: 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. 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
Assessor's section Maps	\$2.50 per square foot
Color Maps	\$5.00 per square foot
Audio Tapes	\$20.00 per cassette tape
Videotape or digital video	Actual expense
Photographs, DVD, CD	Actual expense
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	Actual expense - See Section 14

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.

**SECTION 10: Protection of Public Records.**

- A. No person shall knowingly alter, deface or destroy public records of the county.
- B. Original public records shall not be removed from county offices.
- C. Care and safekeeping of public records, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.
- D. Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished. Each Public Records Officer shall, to the extent practicable, ensure that records requested are not misplaced or misfiled by members of the public during inspections or copying.
- E. Boisterous or otherwise disruptive conduct by those requesting public records of the county shall not be permitted.

**SECTION 11: 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.

**SECTION 12: 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.

**SECTION 13: Review of Denied Request.**

- A. Any person who objects to the denial of a request for a public record may petition the Prosecuting Attorney for prompt review of such decision by delivering a written request to the Prosecuting Attorney and including all written responses by the Public Records Officer or other County employee denying the request.
- B. The Prosecuting Attorney shall affirm, modify or reverse the denial in writing within two business days following receipt of the written request for review.
- C. A requester's administrative remedies shall not be deemed exhausted until the Prosecuting Attorney has made a written decision or until the close of the second

business day following the Prosecuting Attorney's receipt 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.

**SECTION 14: Electronic Information.**

For purposes of this chapter 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 Management Information Services administrator, 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;
  - e. Actual costs for magnetic tapes, computer paper, microfiche, disks, and/or other media used to provide the custom electronic product;
  - f. Any consulting fee, subcontractor fee or service cost incurred as a result of obtaining secondary services to respond to the request; and
  - g. 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 be 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.

**SECTION 15: 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.

**SECTION 16: Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this chapter.

PASSED by the Board of Commissioners of Grays Harbor County at a regular meeting thereof this 11<sup>th</sup> day of February, 2008.

BOARD OF COMMISSIONERS  
GRAYS HARBOR COUNTY

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Albert A. Carter, Chair, Commissioner  
District 3

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Bob Beerbower, Commissioner

District 1

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Mike Wilson, Commissioner  
District 2

ATTEST:

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Clerk of the Board

APPROVED AS TO FORM:

H. STEWARD MENEFFEE  
PROSECUTING ATTORNEY

By: \_\_\_\_\_  
Senior Deputy Prosecuting Attorney