

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
LINCOLN COUNTY, WASHINGTON**

**IN THE MATTER OF ADOPTING A POLICY)
FOR DISCLOSURE OF PUBLIC RECORDS AND) RESOLUTION 09-23
REPEALING AND RE-ENACTING CHAPTER)
2.36 OF THE LINCOLN COUNTY CODE)**

WHEREAS, the Board of County Commissioners of Lincoln County having convened in Regular Session, in their office at the Lincoln County Courthouse this 6th day of April 2009, with all members present; and

WHEREAS, the people of the State of Washington, by Initiative Measure No. 276, approved November 7, 1972, declared public policy to be for the full access to information concerning the conduct of government; and

WHEREAS, Initiative Measure No. 276, codified as a portion of chapter 42.17 of the Revised Code of Washington (RCW), mandates broad disclosure of public records; and

WHEREAS, portions of chapter 42.17 relating to public disclosure have been re-codified as chapter 42.56 RCW; and

WHEREAS, the Lincoln County Board of Commissioners is committed to providing full access to public records in accordance with the provisions of chapter 42.56 RCW and other applicable law relating to public records in the custody of and/or maintained by the county; and

NOW, THEREFORE, BE IT RESOLVED that Chapter 2.36 of the Lincoln County Code is repealed; and

BE IT FURTHER RESOLVED that the attached policy entitled Public Records Disclosure is hereby adopted and codified as Chapter 2.36 of the Lincoln County Code.

DATED at Davenport, Lincoln County, Washington, this 6th day of April, 2009.

BOARD OF COUNTY COMMISSIONERS
OF LINCOLN COUNTY, WASHINGTON

ATTEST

Chairman – Dennis D. Bly

Clerk of the Board – Shelly Johnston

Vice Chairman – Scott M. Hutsell

By _____
Deputy Clerk of the Board
Marci Patterson

Member – Ted Hopkins

CHAPTER 2.36 PUBLIC RECORDS DISCLOSURE

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2.36.010 Purpose of provisions.

The purpose of this chapter is to ensure compliance with the provisions of chapter 42.56 RCW (the Washington State Public Records Act) and other applicable law relating to public records in the custody of and/or maintained by the county. The purpose of the Act is to provide the public with full access to records concerning the conduct of government, mindful of individual privacy rights and the desirability of the efficient administration of government.

2.36.020 Public disclosure officer -- Appointment and responsibility.

The legislative authority has appointed the Lincoln County Auditor as public disclosure officer who shall have the following responsibilities: 1) serve as a point of contact for the members of the public in requesting disclosure of public records; 2) be responsible for the rules regarding release of public records, and 3) shall ensure compliance and cooperation of staff with the records disclosure requirements of chapter 42.56 RCW and other applicable laws. The public records officer shall publish his/her name and contact information in a way to provide notice to the public.

2.36.030 Public records available.

The county legislative authority and each county department, agency, division, board and commission shall make available for public inspection and copying all public records, except as otherwise provided by law.

2.36.040 Requests –Form – Information required.

The public disclosure officer shall provide a set of uniform public disclosure request forms for use throughout the county. All requests for public records shall be made by completing a form that is substantially similar to that provided by the officer. The request shall be presented to the

public disclosure officer or designee of the department, office, agency, board, division or commission believed to be responsible for the records being requested. The request shall include the following information:

- (1) The name, address and phone number of the person making the request for the record;
- (2) The time of day and date that the request is received;
- (3) The nature of the request and identification of the requested records by reference to the department's current index, names, title, subject matter, and time frames, or other means of enabling the public disclosure officer or his designee to find and make available the requested records; and,
- (4) Whether such request is for a list of individuals.

2.36.050 Informal requests permitted -- When.

Certain departments and offices of elected officials which have records in certain forms which have customarily been open to public inspection and/or copying may, at the option of the heads of such departments or elected officials, permit inspection and copying without requiring such requests in writing.

2.36.060 Requests for lists of individuals -- Affidavit required.

In the case of a request for records that may contain a list of individuals, the person making the request will furnish an affidavit either:

- (1) That states that he/she is not requesting the list for commercial purposes; or
- (2) That states that he/she is specifically authorized or directed by law to obtain the list of individuals for commercial purposes, and that identifies such law.

2.36.070 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 county equipment to copy public records, which charges shall not exceed the amount necessary to reimburse the county for its actual costs directly incident to such copying, which may be charged in advance. County charges for photocopies shall be imposed in accordance with the actual per page cost or other costs established and published by county departments, offices, agencies, boards, divisions or commissions. In no event may the county charge a per page cost greater than the actual per page cost as established and published by the various county entities. To the extent the individual county entity has not established the actual per page cost for photocopies of public records, it may not charge in excess of fifteen cents per page or as otherwise provided by state law.

2.36.080 Certain personal and other records exempt.

Public records described as exempt by Chapter 42.56 RCW, or that are required to be withheld by any other law, are exempt from these rules.

2.36.090 Delete/Redact Exempt Materials

The county is not relieved of its obligation to respond to requests for public records because a portion of the record contains information covered by an exemption. The county has a duty to delete or redact specific information covered by an exemption and disclose the remainder of the record.

2.36.100 Response to requests.

The county will process requests so that, within five (5) business days of receiving the request, one of the following actions occurs:

1. the records are made available for inspection or copies available to requestor;
2. an acknowledgement is sent to the requestor including a reasonable estimate of the time required to provide the information;
3. the request is denied in writing

RCW 42.56.520 provides that a response to a public records request must be made within five business days. However, RCW 1.12.040, which is a general statute that appears to be of application throughout the state statutes, provides: "The time within which an act is to be done, as herein provided, shall be computed by excluding the first day, and including the last, unless the last day is a holiday, Saturday, or Sunday, and then it is also excluded."

2.36.110 Additional time necessary.

Additional time may be needed in order to respond to a request. The additional time needed to respond to a request may be based upon (1) the need to clarify a request; (2) additional time needed to locate and respond to the request; (3) the need to contact a third party or agency affected by the request; or (4) additional time needed to determine whether certain information is covered by an exemption to the disclosure requirements.

2.36.120 Review of denials of public records.

- (1) Any person who objects to the initial denial or partial denial of a public records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the decision denying the request.
- (2) If the petition concerns records of the executive branch of county government the public records officer shall serve as the reviewing authority unless the public records officer made the original decision in which case the county legislative authority chair shall designate a different county officer as the reviewing authority, which designation may be made on a case-by-case or other basis. If the petition concerns records of the legislative or judicial branch of county government, the chair of the legislative authority or judge of the respective court shall serve as the reviewing authority, and the public records officer shall promptly provide the petition and other relevant information to that officer.

(3) The reviewing authority shall consider the petition and affirm or reverse the denial within two business days after the public records officer's receipt of the petition, or within such other time as the county and the requestor may mutually agree.

(4) A person whose public records request is denied may seek judicial review at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

2.36.130 Exemption from requirement to maintain a current records index

(1) The legislative authority finds that Lincoln County government is comprised of many branches, boards, departments, divisions, agencies, offices, and commissions, which maintain separate records and incompatible record-keeping systems. The county's records are voluminous, diverse, complex and stored in multiple locations and in multiple incompatible data bases. As a result, it would be unduly burdensome and costly to the Lincoln County taxpayers, and would substantially interfere with effective and timely county office operations to develop an index of those records identified in RCW 42.56.070(3).

(2) No Lincoln County official, branch, agency, board, department, division, office, commission or other Lincoln County entity is required to maintain an index of public records conforming to the requirements of RCW 42.56.070(3).

(3) Any index maintained by an individual branch, agency, board, department, division, office or commission shall be made available for public inspection and copying unless exempt from disclosure or made confidential by law.