



EXECUTIVE COMMITTEE AGENDA

Friday, March 22, 2013

Cavallino Room, 3rd Floor, Hotel Murano, Tacoma, WA

1. **Call to Order**
 - a. Introductions, welcome/swear in new members.....1

2. **Approval of Minutes** (Scott)
 - a. Executive Committee Meeting Minutes of January 18, 2013 2

3. **Treasurer’s Report** (Gina)
 - a. Account Summaries (included in your annual business meeting packet)

4. **New Business**
 - a. Conference and Academy Refunds (Scott) 10
 - b. Job Description Updates (Scott) 11
 - c. AWC Conference participation (June 25-28, Tri Cities) none
 - d. Request for Credit Card for President-Elect Quinn (Scott) none
 - e. Region IX Director Agreement (Scott/All)..... 15
 - f. 2015 Conference Hotel Contract (Diana) 20

5. **Committee Business/Reports**
 - a. Audit (Randy) none
 - b. Awards (Sandy) 33
 - c. Budget (Scott) none
 - d. Bylaws (Christy) 34
 - e. Conference Planning (Paula/Virginia)..... 36
 - f. Education (Virginia/Scott)..... 37
 - h. Fundraising (Diana) 39
 - h. Legislative (Debbie C.) 41
 - i. Membership/WMCA Handbook (Sandy) 43
 - j. Newsletter (Bobbie)..... none
 - k. Scholarship (Gina) none
 - l. Webmaster (Bobbie)..... 277

6. **Other Business**
 - a. Executive Committee Roster and Contact Information..... 280
 - b. Committee Chair and Liaison Roster 281
 - c. Schedule of EC meetings..... 282
 - d. ??????? none

7. **Next Meeting**
 June 14, 2013 – City Hall, Shoreline, WA

8. **Adjournment**



To: WMCA Executive Committee, Elections Officer, and Membership Committee Chair

From: Molly Towslee, Elections Auditor

Re: 2013 WMCA Executive Committee General Election Audit Report

Date: February 26, 2013

On January 25, 2013, email ballot information, voting instructions, and a link to the electronic voting software was sent to each active WMCA member in good standing from the list provided by the Treasurer. Members were asked to vote for President – Elect, Vice-President, Treasurer, and two Board Member positions. The election closed on February 15th and the results were forwarded to me by the Elections Officer, Elizabeth Smoot on February 19, 2013.

I have completed an independent review of the elections results and find the election process and results to be sound. Out of 325 members, 98 ballots were cast with the following results:

Candidate	Total Votes	Percentage
<u>President-Elect</u>		
Diana Quinn, CMC, City of Algona	95	98.96
Kammy Hill, Walla Walla (write in)	1	1.04%
<u>Vice-President</u>		
Debbie Burke, MMC, Normandy Park	98	100.00%
<u>Treasurer</u>		
Gina Anderson, CMC, City of Woodland	98	100.00%
<u>Board Member (2 openings)</u>		
Jill Boltz, CMC, City of Poulsbo	68	70.10%
Bobbie Usselman, MMC, City of Sequim	92	94.85%
Kammy Hill, Walla Walla (write in)	1	1.03%
Kay Kammer, (write in)	1	1.03%

Because the ballots cast do not add up to the 98 total ballots in several instances, it appears that some members cast their ballots only for certain positions, but not others.

Thank you for the opportunity to assist in the election process.



DRAFT

**WASHINGTON MUNICIPAL CLERKS ASSOCIATION
EXECUTIVE COMMITTEE MEETING**

Friday, January 18, 2013, 10:00 a.m.
Mountlake Terrace City Hall, Mountlake Terrace, WA

CALL TO ORDER:

President Paul called the meeting to order at 10:10 a.m.

ROLL CALL:

President Sandy Paul, President-Elect Scott Passey, Vice President Diana Quinn, Secretary Virginia Olsen, Treasurer Gina Anderson, and Board Members Debbie Burke, Randy Hinchliffe, Christy O'Flaherty, and Bobbie Usselman.

Boardmembers Debbie Clark and Paula Swisher were absent. Boardmember O'Flaherty arrived at 11:29 a.m.

President Paul asked if there was anything to add to the agenda besides attending the BIAS Software conference as a vendor. There were no other items added to the agenda.

Vice President Quinn said she was attending the BIAS conference as a client so she would be willing to represent WMCA. There was consensus for Vice President Quinn to represent WMCA at the conference and further discussion about what materials to bring.

APPROVAL OF MINUTES:

President-Elect Passey **MOVED**, seconded by Treasurer Anderson, to approve the Executive Committee meeting minutes for October 19, 2012. The motion **PASSED** 8/0.

TREASURER'S REPORT:

Account Summaries

Treasurer Gina Anderson distributed the written report. She noted that there are 324 active members, two affiliate members and five associate members for a total of 331.

Boardmember Usselman **MOVED**, seconded by Boardmember Burke, to approve the Treasurer's report. The motion **PASSED** 8/0.

Review of Forms

Treasurer Anderson said she added her contact information to the membership application. Boardmember Usselman suggested adding a line to the form designating who was being replaced. It was decided that reviewing the forms annually should be added to the Treasurer's job description.

Financial Policies

President Paul reviewed the addition to 2.1.2 that stated, "Should the President, President-Elect or designee elect to only purchase fuel using the assigned credit card that would be an allowable expense provided it does not exceed the WA state mileage rate."

Boardmember Burke suggested updating Financial Policies 3.4.1 and 2.2.6 with "not to exceed \$50".

Secretary Olsen **MOVED**, seconded by Boardmember Burke, to update the \$25 amount in the Financial Policies to "not to exceed \$50". The motion **PASSED** 8/0.

2013-2014 Budget

President-Elect Passey distributed an updated Scholarship Revenues and Expenditures handout. There was discussion about revenue line items and estimating conservatively.

Further discussion ensued about members registering for NCI and then applying for scholarships. President Paul suggested this topic be discussed under the Scholarship Committee report.

After review of the expenditures section, it was noted the gifts line item needed to be increased from \$25 to \$50.

Secretary Olsen stated she would look into a new give away for the WMCA vendor booth at the AWC conference in Tri-Cities this June.

There was discussion about NCI scholarship and Scholarship Items for Sale expenditure line items. It was decided to add \$2,000 to the line item for Scholarship Items for Sale.

The meeting recessed at 11:05 a.m. The meeting reconvened at 11:10 a.m.

Region IX Representative to IIMC

President-Elect Passey stated that the process of selecting a representative and providing time for the other states to endorse WMCA's candidate took longer than he expected. He said we needed to build sufficient time into the process for the next time it is WMCA's turn to select a Region IX Director.

Boardmember O'Flaherty arrived.

It was decided that the selection process needed to be memorialized along with a timeline of actions to take since it is only done every six years. The suggested timeline was Executive Committee discussion at the June board meeting, advertise to members through September, and Executive Committee discussion and decision at the October board meeting. It was also recommended to add the two board meeting discussion items to the President's job description and ensure the discussion is added to the October meeting agenda.

Discussed followed that WMCA is scheduled to appoint its next Region IX Director in 2017, so the process would need to take place beginning in summer of 2016 with a decision at the October 2016 board meeting.

There was discussion that if the current WMCA President is a candidate for Region IX Director, the selection process responsibility falls upon the President-Elect. President-Elect Passey said he would draft a memo memorializing the process for further discussion and approval at the March board meeting and add it to the President's job description.

President-Elect Passey noted that Alice Attwood, Tonasket City Clerk/Treasurer, was selected via Executive Committee secret ballot vote and he said he got endorsement letters from the other three Region IX states.

There was discussion about Alice Attwood not yet having served on an IIMC Committee but she was willing to do so. It was noted that IIMC extended the deadline for signing up for a committee, so she could fulfill this criteria. It was noted that although service on an IIMC committee was not required by IIMC, it was one of the Region IX criteria. The Executive Committee said that next time the process will be memorialized so there should not be so much confusion about the process and timeline.

Boardmember Usselman **MOVED**, seconded by Treasurer Anderson, to ratify the selection of Alice Attwood to serve as WMCA's representative as Region IX Director. The motion **PASSED** 8/0 and President Paul abstained.

Region IX Agreement

The Region IX Agreement that had been updated by the four State Presidents was presented for review. There was discussion about WMCA's criteria and updating the Region IX agreement to make it more flexible.

Boardmember Usselman suggested a revision to item 3f: "or served a full term on the State Association's Executive Committee". Several Executive Committee members noted that they thought serving as a Chair of a State Committee might be just as or more valuable than just serving on an IIMC Committee since it would likely be more hands on with more exposure to the big picture of how things operate.

There was direction to leave the provisions as is and check to see if a WMCA policy or additional criteria existed. President Paul expressed that it was her desire to approve the agreement during her term as President.

Boardmember O'Flaherty **MOVED**, seconded by Boardmember Usselman, to revise number 6 in the Region IX Agreement from "no more than \$5.00 per member" to "a minimum of \$5.00 per member". The motion **PASSED** 9/0.

President Paul stressed the importance of memorializing the process.

The meeting recessed for lunch at 12:15 p.m. The meeting reconvened at 1:05 p.m.

2015 Conference Venue – Update

Vice President Quinn said she had two venues for review, the Vancouver Hilton and Vancouver Heathman. She said she considered the Bremerton Conference Center but eliminated it because they would split our group into two hotels and they were too expensive.

Vice President Quinn said she was going on a site visit to both the Heathman and the Hilton that next weekend. President Paul noted that the Hilton was fabulous for the AWC Annual Conference. Vice President Quinn stated that she forwarded the information she received to Conference Planning Committee Chair Paula Swisher who had some concerns with the Hilton's proposal. Vice President Quinn said she had not negotiated the contract yet, so she was hopeful we would get a better price for consideration.

Job Descriptions

Discussion ensued about the draft Executive Committee job descriptions. It was decided that Executive Committee members should make updates and send them to President-Elect Passey with strike-through notations for inclusion in the March board meeting packet by February 14. Boardmember Burke volunteered to compile the changes from the other Boardmembers for that position.

Clerk's Handbook

Most members did not have time to review the handbook and it was only received with tracked changes. There was discussion that Ronald Moore did a great job with the Membership Committee making the changes and they spent a lot of time completing this project.

Boardmember Usselman **MOVED**, seconded by Boardmember O'Flaherty, to postpone review of the handbook until the March meeting and she would email a clean version for the Executive Committee to review. The motion **PASSED** 9/0.

BIAS Software Conference

Boardmember Burke **MOVED**, seconded by President-Elect Passey, to allocate \$50 for the vendor giveaway drawing at the BIAS Software Conference. The motion **PASSED** 9/0.

COMMITTEE BUSINESS/REPORTS:

Audit Committee Report

Boardmember Hinchliffe said the Audit Committee would be meeting on January 25.

Awards Committee Report

Boardmember Usselman stated that there were seven nominations for Clerk of the Year and one of them was not qualified. She sent the nominations to the WMCA President for review.

Budget Committee Report

President-Elect Passey had nothing to add to his earlier report.

Bylaws Committee Report

Boardmember O'Flaherty said there was no new business this year to date. There was follow up from the 2015 conference venue discussion about how it can be difficult for the incoming Vice President to be up to speed about selecting a conference site and understanding the timeline and important factors that go into that decision. The Executive Committee spoke about the learning curve in jumping in as Vice President and moving up the chairs without having any prior experience serving on the Executive Committee. It was also noted that there is an expectation that when a member runs for Vice President, it is a four-year commitment by the time they succeed to President-Elect, President and Past President.

Several members expressed that it was odd that Vice President does not automatically succeed to President-Elect and the Vice President must run for President-Elect since the President-Elect automatically advances to President. Discussion ensued.

It was recommended that a bylaws amendment be forwarded to the Bylaws Committee that the Vice President automatically succeed to President-Elect, then President and Immediate Past President to provide more continuity and experience for the organization and set the expectation for those running that it is more than a one-year commitment.

Additionally, it was recommended that the Vice President should serve on the Executive Committee to be qualified to serve as Vice President, so they are more equipped to hit the ground running and be more prepared by the time they serve as President-Elect and President. There was discussion about whether someone should serve for one full term or a shorter period of time.

Boardmember O'Flaherty **MOVED**, seconded by Boardmember Burke, to forward a proposed amendment to the Bylaws Committee that anyone who files for the position of Vice President must have served on the WMCA Executive Committee for at least one full year upon taking office for Vice President. The motion **PASSED** 9/0.

Secretary Olsen said bylaws changes must go to the President and Secretary 30 days prior to annual business meeting and out to the membership by March 1 or 20 days prior to the Annual Business Meeting.

Conference Planning Committee Report

Secretary Olsen stated that Conference Planning Committee Chair Swisher was working on the details for the special events including the President's Reception, Auction Night and Banquet Night. Secretary Olsen stated that there would be a cowboy buffet on auction night and Boardmember Swisher was discussing decoration ideas with the committee for the Banquet Night. She added that Boardmember Swisher likes to surprise the President at their banquet to make it a special occasion for them, so she always keeps the decorations details a secret. Secretary Olsen said the Committee would be meeting again before the conference.

President Paul stated she wanted a reception line at the President's Reception to include the out-of-state guests, so these guests could be introduced to our membership. It was noted that Madam President could greet the guests as she sees fit.

Secretary Olsen noted that she did not believe most members know what Region IX is unless they have served on the Executive Committee, had interactions with IIMC, or attended the IIMC Conference. President-Elect Passey stated that is confusing with so many organizations including state associations, county associations, regional groups and IIMC. There was consensus to educate our members via the newsletter including a map that shows what states belong to Region IX and how many regions are in IIMC.

Boardmember O'Flaherty left the meeting to return to work.

Education Committee Report

Secretary Olsen referred to the written report and draft conference schedule. Secretary Olsen stated that Patti Crane from WCIA asked for ideas of how they can help WMCA. She said if anyone had ideas to forward them to her.

Boardmember Burke inquired if WCIA would be interested in sponsoring an ongoing certification program. She asked about ongoing education and staying current with CMC and MMC designations since WAPRO has a certification program now. President Paul stated that Texas and New Jersey have continuing education programs, so perhaps WMCA could see what those states are doing with regard to continuing education.

Secretary Olsen stated that WCIA and AWC Employee Benefit Trust had sponsored speakers again this year, saving WMCA thousands of dollars. She said this year's conference education includes some of the basic topics tailored toward newer members as well as some new speakers and topics. President-Elect Passey said he liked the idea of having two sessions on Friday. Secretary Olsen remarked that NCI Director Dema Harris suggested the idea and it works in Tacoma but in more remote locations, it could be more expensive to do this.

Fundraising Committee Report

Vice President Quinn showed samples of the items the Executive Committee had asked to check out including full zip sweatshirts in men's and women's sizes and in two different brands. The samples were a large men's sweatshirt and the women's sweatshirt. Vice President Quinn also showed samples of a capped sleeve t-shirt and soup bowl. There was direction to proceed with the full zip men's sweatshirt (all sizes but mostly medium and large), fleece women's sweatshirt, blue tumblers, 16 ounce black coffee/soup mugs, and the long-sleeved t-shirts.

There was discussion about the number of items to purchase and there was direction for the Fundraising Committee to buy 48 each of the fleece and regular sweatshirts, 72 black coffee mugs/soup bowls, and 144 blue tumblers. The Executive Committee suggested these items might be popular since they will have the new logo on them.

The Executive Committee decided that the Wednesday Night Auctioneer at conference would be Colleen Nicol with Virginia Olsen as the backup if Colleen could not make it.

The Executive Committee spoke about ideas for fundraising on auction night including a modified raffle and donations for the scholarship fund. There were no clever ideas that matched the enthusiasm of the 2012 "Pie in the Face" fundraiser so it was suggested the Conference Planning and Fundraising Committees proceed with the usual silent/live auction unless a new idea comes to light. There was also direction to purchase from the vendor with the lowest price as opposed to an in-state vendor.

Historical Committee Report

Boardmember Burke said there was no written report. There was discussion about hiring a photographer for the conference banquet night. President Paul said she would ask Tacoma City Clerk Doris Sorum who the City of Tacoma uses, so a photographer could be hired to take photos at the banquet including Clerk of the Year and other awardees. The Executive Committee asked if the Historical Committee members would help take photos at opening ceremony, first-time attendee breakfast, Region IX lunch, classroom and candid photos, auction night, and the

President's Receptionist. Vice President Quinn suggested the committee members or even the membership at large sign up to take photos at specific events, similar to how the registration table is covered. There was consensus for Boardmember Burke to have the Historical Committee members sign up to cover these events and others could volunteer to help if they wished.

There was also discussion about looking into purchasing photo books at a local store to display the photos at future conferences.

Legislative Committee Report

President Paul said the top four items on AWC Legislative Committee agenda are about public disclosure. She said and there was not much else to report on since it is a big budget year.

There was discussion about the vast amount of public records requests in various cities including requests from data miners. President Paul stated that her former city had data miner requesters, many of whom were from out of state, sign an affidavit that the information was not for commercial purposes. She said it cut way down on the amount of requests they received. Secretary Olsen suggested that this idea be shared with members. President Paul stated that AWC Attorney/Lobbyist Doug Levy and Redmond City Clerk Michelle McGehee have worked a lot on this issue.

Membership Committee Report

President Paul commended Membership Committee Chair Ronald Moore and the committee for their forward thinking and increasing the membership.

President Paul provided a list of candidates for WMCA office. There were no contested races.

Newsletter Committee Report

President Paul said the Executive Committee and Newsletter Committee needed to adhere to a timeline. Secretary Olsen suggested using a production schedule and including articles that should be in certain issues, such as Clerk of the Year in the April issue.

President Paul noted that she would prefer content not be written in the first person. Discussion ensued about whether there was a need for newsletter policies or guidelines. President Paul recommended that the use of first person be avoided but there was no need to develop policies at this time. Boardmember Burke and Secretary Olsen volunteered to draft a production schedule for 2013-14.

Webmaster Report

Boardmember Usselman said she had made web updates for conference including registration. She recommended the Executive Committee use the secure website to download the board packets.

Boardmember Hinchliffe left the meeting at 3:57 p.m.

Scholarship Committee Report

President Paul provided the ratings sheet and four applications that were the lowest ranked. She said she recommended at least partial denial of these four applications. President Paul remarked that the Scholarship Committee felt the same about the poor quality of these applications.

President Paul explained the ranking system since the Executive Committee did not have the scoring sheet. Discussed ensued about awarding full versus partial scholarships and denial of scholarships.

The Executive Committee asked for additional time to review all of the applications and the information about how the committee scored the applications. President Paul stated that she did not print all of the applications due to problems with her home printer. Boardmember Burke volunteered to scan and email the applications to the Executive Committee for further discussion and decision.

GOOD OF THE ORDER:

President Paul asked if the Executive Committee received the invitation to the Region IX Dinner. She said she would include the information in the newsletter. Secretary Olsen suggested it wait until after the WMCA conference takes place to avoid confusion and there was consensus to do so. The deadline is May 10.

Boardmember Burke suggested adding all the conference dates to each newsletter and the Executive Committee agreed.

President Paul said the vendors at the AWC conference have professional tablecloths with company logos on their tradeshow tables in the exhibitor booths. President Paul stated that Secretary Olsen volunteered to bring some quotes on these table coverings for the next board meeting. She asked if the Executive Committee wanted to move forward and there was consensus to do so at the March meeting.

NEXT MEETING:

The next regular Executive Committee meeting is scheduled for March 22, 2013, in Tacoma, WA.

ADJOURNMENT:

President Paul adjourned the meeting at 4:15 p.m.

Virginia V. Olsen, CMC, Secretary

From: [Bobbie Usselman](#)
To: "[Judy Thomas](#)"
Cc: [Scott Passey](#)
Subject: RE: WMCA - Remember to bring your auction items to Conference
Date: Wednesday, March 13, 2013 8:46:35 AM
Attachments: [-WR0000.jpg](#)
[jmaax001.tca](#)

Hi Judy –

We will send out an eblast to the membership indicating your situation for cancellation. Someone may contact you to work out the details. If someone is able to help you out, please let me know.

Otherwise, I've been advised the request for refund will have to go to the board for consideration. I'll ask **Scott** to tentatively put it on the agenda for next Friday's board meeting.

b

From: Judy Thomas [mailto:clerktreasurer@townofcoupeville.org]
Sent: Tuesday, March 12, 2013 3:34 PM
To: Bobbie Usselman
Subject: Re: WMCA - Remember to bring your auction items to Conference

I have to cancel my registration for the advanced academy and conference as I am out of the state on a family medical emergency and unable to attend. I hope I can get a refund. Please respond via email or call me at 253-988-2883..

Thank you.

Judy A Thomas
Clerk-Treasurer
Town of Coupeville
Sent from my iPad

On Mar 12, 2013, at 10:06 AM, "Washington Municipal Clerks Association" <admin@wmcaclerks.org> wrote:



000010



- First Quarter Report (June Mtg)
- Second Quarter Report (Oct Mtg)
- Third Quarter Report (Jan Mtg)
- Year-End Report (Mar Mtg)

TO: WMCA President and Executive Committee

FROM: Scott Passey

COMMITTEE: Executive Committee

DATE: March 22, 2013

SUMMARY OF ACTIVITIES: At the January 18, 2013 WMCA Executive Committee meeting, President-Elect Passey was charged with drafting a memo memorializing the Region IX Director selection process for approval at the March board meeting. This can be accomplished by amending the President's job description to include general responsibility for conducting the Region IX Director selection process.

ACTION REQUESTED: YES NO

RECOMMENDATION: Approval of amendment to the President's job description.

ALTERNATIVES: The Executive Committee can approve the amendment as proposed or offer alternative language.

FISCAL IMPACT: None

Revenues:	Budgeted Amount	Revenues Generated
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
Expenditures:	Budgeted Amount	Amount encumbered & expended
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

President

The duties of the President shall be:

A. Immediate Duties:

1. Call and conduct the Executive Committee meeting immediately following the Annual Conference. Produce and distribute agenda and packet materials for the meeting.
2. Assume the office of President at the end of the Annual Banquet with the passing of the gavel, make closing remarks and close the conference.
3. Pick up Committee sign-up lists at the end of the annual conference and send electronic version of the lists to the Executive Committee and each Committee Chair as soon as possible after the close of the conference.

B. Leadership Responsibilities:

1. Maintain knowledge of WMCA by-laws, policies and procedures.
2. Recognize that the responsibility for administration of the Association is vested in the entire Executive Committee. Implementation of those decisions is conducted through committees.
3. Present to the Association the recommendations of the Executive Committee and special committees.

C. Administrative Responsibilities:

1. Advise Mayors or City Managers by letter of the election of their clerk as a WMCA Executive Committee member as soon as possible after taking office; may also prepare press releases if desired.
2. Call, plan and conduct all Executive Committee meetings - three for the year, not including those at the Annual Conference. Prepare an agenda packet and provide it to the Executive Committee at least 7 days prior to the scheduled meeting.
3. Serve as a delegate to the IIMC Annual Conference (May), and to the state conferences of Oregon (September), Alaska (November) and California (April), and the Annual Conference in British Columbia (May) as well as the Region IX Annual Meeting. The Association pays normal travel expenses (per WMCA policy). If unable to attend, appoint designee to serve as delegate to any of these meetings. If a designee attends, normal travel expenses will be paid by WMCA.
4. The President participates in the flag ceremony at the IIMC Annual Conference, if required, and attends the President's meeting.
5. When traveling to the meetings of other state associations, the President commonly takes gifts for the in-coming and outgoing presidents, as well as a silent auction item. The Executive Committee has established an approximate amount of \$2550 per gift, which is an expense of WMCA.
6. Maintain contact during the year with all committees, delegate assignments as necessary and monitor work. Notify committee chairs when their written committee reports are due for inclusion in the packets for each of the Executive Committee meetings.
7. Submit a President's message for the April, July, October and January editions of the Executive Committee Monthly Reports (also to be put on the website).

8. Appoint persons as necessary to represent WMCA on special joint committees with other organizations. (The President has sole discretion in such appointments.)
9. Write congratulatory letters throughout the year to those who have obtained their CMC and MMC and keep a list for the year so that these clerks can be recognized at the Annual Conference. Notify the Mayors or City Manager/City Administrator of cities whose clerks obtain their CMC or MMC.
10. Attend or designate a representative to provide welcoming remarks at each of the NCI Professional Development sessions.
11. Prepare the "Call to Conference" for distribution to all members by mid-December. The Education Committee and Conference Planning Committee shall provide the information for the "Call to Conference" and it shall include the following:
 - a. Pre-Conference Information (Lodging information, Transportation choices, Parking costs/choices, Conference attire, Special Events, Themes)
 - b. Registration form (Registration costs, Meal information)
 - c. Draft Education Session Agenda
13. Send personal invitations to the Presidents of Alaska, California, Oregon, and British Columbia Associations, the Region IX Directors and the IIMC President to attend the WMCA's Annual Conference as guests. Outline in the letter what WMCA will "host" (traditionally the registration fee for state presidents and Region IX representatives is complimentary, if funds are available; the IIMC President may receive complimentary lodging if funds are available). Forward the names of the guests who will be attending to the Conference Planning Committee Co-Chairs so they can make hotel reservations for those guests. Send a personal invitation to last year's Clerk of the Year, noting that she/he will receive complimentary registration for the conference.
14. Schedule orientation meeting of incoming Committee Chairs at the Annual Conference. Include past Committee Chairs as well to facilitate transfer of records and information.
15. Select the Clerk of the Year from nominations presented by the Awards Committee.
16. Have incoming President's name and term of office engraved on the WMCA traveling plaque prior to the conference.
17. Direct the Secretary to prepare resolutions honoring the host clerk, the host hotel, conference planning and conference program chairs.
18. Prior to the Annual Conference, brief the President-Elect on Presidential duties and responsibilities at the conference and arrange a meeting either at conference or shortly thereafter to transfer information and records.
19. Prepare annual business meeting packets including prior year's annual business meeting minutes and provide to Conference Planning Committee. Packets will be made available to conference attendees electronically, with only a limited number available at the meeting.
20. Conduct the selection process of a single nominee to the position of IIMC Region IX Director according to the policies outlined in the most current IIMC Region IX Director Agreement. This responsibility rotates among Washington, Alaska, Oregon, and California; however, the President should be prepared to conduct the process in applicable years. In the event the President is a candidate for Region IX Director, this responsibility shall be delegated to the President-Elect.

D. Responsibilities at the Annual Conference:

1. The President will work closely with the Conference Planning and the Education Committees to prepare for the Annual Conference. The President will perform the following specific duties at the Annual Conference:
2. Conduct the opening session, introducing the Executive Committee, guests, past presidents, new clerks, etc. and present a general welcome message to all of those present. Attend the First Time Attendees event.
3. Conduct the Annual Business meeting.
4. Preside at the Annual Banquet; recognize new CMCs and MMCs, past presidents, guests, and those who have contributed to WMCA (sponsors). Present the Clerk of the Year Award. Oversee the installation of new Executive Committee members, prepare script for oath of office and select an individual to administer oaths. Pass the President's traveling plaque and gavel to the President-Elect.



- First Quarter Report (June Mtg)
- Second Quarter Report (Oct Mtg)
- Third Quarter Report (Jan Mtg)
- Year-End Report (Mar Mtg)

TO: WMCA President and Executive Committee

FROM: Scott Passey

COMMITTEE: Executive Committee

DATE: March 22, 2013

SUMMARY OF ACTIVITIES: At the January 18 Executive Committee meeting, the Region IX Director Agreement that had been updated by the four State Presidents was presented for review. There was discussion about WMCA's criteria and updating the Region IX Director Agreement to make it more flexible. Boardmember Bobbie Usselman suggested an addition to item 3f: "or served a full term on the State Association's Executive Committee." This report also acknowledges that item 6 was revised by vote from "no more than \$5.00 per member" to "a minimum of \$5.00 per member." However, I was not able to make that change because I do not have the original document.

ACTION REQUESTED: YES NO

RECOMMENDATION: The Executive Committee should discuss the merits of this addition and, if appropriate, take action by way of a vote.

ALTERNATIVES: The Executive Committee can approve the amendment as proposed, reject it, or offer alternative language.

FISCAL IMPACT: none

Revenues:	Budgeted Amount	Revenues Generated
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
Expenditures:	Budgeted Amount	Amount encumbered & expended
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____



International Institute of Municipal Clerks Region IX Director Agreement

Purpose:

To affirm the policy that the IIMC Region IX Director position rotates among the states of Alaska, California, Oregon, and Washington; to establish a schedule for that rotation; to agree to a process for submitting the candidate's name to IIMC; and to agree to an assessment pool for Region IX Director travel costs.

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Policy:

1. The term of office for IIMC Region Directors is three years. Region IX is represented by two directors whose terms are staggered. Each time one director ends a term, the next director to be voted upon by the region membership shall be selected from the state association next in the rotation schedule.

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2. From the time of this agreement, Region IX Directors will rotate according to the following schedule:

- a) Alaska serves 2010-2013 term expires May 2013
California elected 2012 – 2015 term Expires May 2015
- b) California serves 2012-2015 term expires May 2015
Washington elected May 2013 term expires May 2016

c) Washington Serves May 2013 Term Expires May 2016
Oregon elected May 2015 Term expires May 2018

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d) Oregon serves May 2015 term expires May 2018
Alaska elected May 2016 Term expires May 2019

e) Alaska serves May 2016 Term Expires May 2019
California elected May 2018 Term Expires May 2021

~~c) Washington serves May 2013 term expires May 2016~~
~~Oregon elected May 2014 term expires May 2017~~

~~d) Oregon serves May 2014 term expires May 2017~~
~~Alaska elected May 2015 term expires May 2018~~

~~e) Alaska serves May 2015 term expires May 2018~~
~~California elected May 2016 term expires May 2019~~

Rotation repeats beginning with a)

- a) California serves May 2016 term expires May 2019
Washington elected May 2017 term expires May 2020

3. The candidate for Region IX Director must meet the qualifications for office as outlined by IIMC:

- a. Served at least three years as a Municipal Clerk;
- b. Been a member of IIMC for at least three years;
- c. Attended at least three annual IIMC conferences;
- d. Be a full or additional full member of IIMC and if elected remain a full or additional full member during the term of office;
- e. Provide written endorsement of candidacy from the candidate's governing body.
- f. In addition to the IIMC criteria, the representative must:
 - 1. Have served on or chaired an IIMC Committee;
 - 2. Possess the CMC or MMC designation; and
 - 3. Meet any further criteria established by their individual state association.

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4. Each Region IX State Association will select a single nominee through its selection process. Each state's selection of a nominee will occur with sufficient time to forward the name of the nominee to each of the other Region IX states for confirmation prior to the deadline for it being submitted to IIMC.

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5. In the event that a state association has no eligible candidate for the Region IX Director position, that state association may pass on their turn and the next state association in line may put forth a candidate.

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6. Each Region IX State Association shall annually contribute no more than \$5.00 per member, beginning with the May 2013 billing invoices, into an assessment pool for travel costs for the Region IX Directors. Travel funds may be used by the Region IX Directors for:
- Coach airline travel made at least 21-days in advance.
 - Hotel room and tax charges during the conference only.
 - Reasonable, actual meal expenses.
 - Mileage and parking.
 - Gifts not to exceed \$30 each.
 - No travel funds shall be used for IIMC conferences.
 - No travel funds shall be used for conference expenses held in the state that the Region IX Director is from, except for gifts.

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This ~~agreement is policy~~, adopted the 12th day of January, 2009, by agreement of the Presidents of the Alaska Association of Municipal Clerks, the City Clerks Association of California, the Oregon Association of Municipal Recorders, and the Washington Municipal Clerks Association, ~~is amended the 20th day of September, 2012 by agreement of the Presidents of the Alaska Association of Municipal Clerks, the City Clerks Association of California, the Oregon Association of Municipal Recorders, and the Washington Municipal Clerks Association.~~

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Johni Blakenship, MMC
AAMC President

Kacie Paxton, CMC
CCAC President

Jaime Anderson, MMC

Stacie Cook, MMC
OAMR President

Sandy Paul, CMC
WMCA President



International Institute of Municipal Clerks Region IX Director Agreement

Purpose:

To affirm the policy that the IIMC Region IX Director position rotates among the states of Alaska, California, Oregon, and Washington; to establish a schedule for that rotation; to agree to a process for submitting the candidate's name to IIMC; and to agree to an assessment pool for Region IX Director travel costs.

Policy:

1. The term of office for IIMC Region Directors is three years. Region IX is represented by two directors whose terms are staggered. Each time one director ends a term, the next director to be voted upon by the region membership shall be selected from the state association next in the rotation schedule.

2. From the time of this agreement, Region IX Directors will rotate according to the following schedule:

- | | | |
|----|--------------------------------|-----------------------|
| a) | Alaska serves 2010-2013 | term expires May 2013 |
| | California elected 2012 – 2015 | term Expires May 2015 |
| b) | California serves 2012-2015 | term expires May 2015 |
| | Washington elected May 2013 | term expires May 2016 |
| c) | Washington Serves May 2013 | Term Expires May 2016 |
| | Oregon elected May 2015 | Term expires May 2018 |
| d) | Oregon serves May 2015 | term expires May 2018 |
| | Alaska elected May 2016 | Term expires May 2019 |
| e) | Alaska serves May 2016 | Term Expires May 2019 |
| | California elected May 2018 | Term Expires May 2021 |

Rotation repeats beginning with a)

- | | | |
|----|-----------------------------|-----------------------|
| a) | California serves May 2016 | term expires May 2019 |
| | Washington elected May 2017 | term expires May 2020 |

3. The candidate for Region IX Director must meet the qualifications for office as outlined by IIMC:

- a. Served at least three years as a Municipal Clerk;
- b. Been a member of IIMC for at least three years;
- c. Attended at least three annual IIMC conferences;
- d. Be a full or additional full member of IIMC and if elected remain a full or additional full member during the term of office;

3. Meet any further criteria established by their individual state association.
4. Each Region IX State Association will select a single nominee through its selection process. Each state's selection of a nominee will occur with sufficient time to forward the name of the nominee to each of the other Region IX states for confirmation prior to the deadline for it being submitted to IIMC.
5. In the event that a state association has no eligible candidate for the Region IX Director position, that state association may pass on their turn and the next state association in line may put forth a candidate.
6. Each Region IX State Association shall annually contribute no more than \$5.00 per member, beginning with the May 2013 billing invoices, into an assessment pool for travel costs for the Region IX Directors. Travel funds may be used by the Region IX Directors for:
 - Coach airline travel made at least 21-days in advance.
 - Hotel room and tax charges during the conference only.
 - Reasonable, actual meal expenses.
 - Mileage and parking.
 - Gifts not to exceed \$30 each.
 - No travel funds shall be used for IIMC conferences.
 - No travel funds shall be used for conference expenses held in the state that the Region IX Director is from, except for gifts.

This agreement is adopted the _____ day of _____, 20____, by agreement of the Presidents of the Alaska Association of Municipal Clerks, the City Clerks Association of California, the Oregon Association of Municipal Recorders, and the Washington Municipal Clerks Association.

Johni Blakenship, MMC
AAMC President

Jaime Anderson, MMC
CCAC President

Stacie Cook, MMC
OAMR President

Sandy Paul, CMC
WMCA President

Originally adopted: 01.12.2009
Revised: 11.27.202012
Next revision: 2015*

*Shall be reviewed every three (3) years.
Copy to be attached to Organizational Policies and Procedures of each State Association.



GROUP SALES EVENT AGREEMENT

A satisfied customer is our goal. We believe that if you feel like we delivered the service and product we promised, it is likely you will return and you will tell others about your positive experience.

This **Group Sales Event Agreement** ("Agreement") between **Washington Municipal Clerks Association** ("Group" or "you" or "your(s)") and **The Downtown Redevelopment Authority** ("Owner"), d/b/a **Hilton Vancouver Washington** (the "Hotel" or "we" or "us" or "our") is intended to be helpful to both you and us and result in your satisfaction with our performance.

Especially Prepared for:		Event & Hotel Information:	
Group Contacts:	Ms. Diana Quinn, CMC President Elect - 2015	Name of "Event":	WMCA Conference 2015
Event Planner:	Ms. Paula Swisher Planning Committee Chair	Date(s) of Event:	Monday, March 16, 2015 thru Friday, March 20, 2015
Company Name:	Washington Municipal Clerks Association	Post to Reader Board As:	WMCA Conference 2015
Address:	City of Algona 402 Warde Street	Hotel Contact:	Rob White
City, State, Zip:	Algona, WA 98001	Title:	Senior Sales Manager
Phone:	(253) 833-2897	Phone:	(360) 828-4316
Fax:		Fax:	(360) 828-4309
Email:	dianaq@algonawa.gov	Email:	rob.white@hilton.com

ROOM BLOCK:

ROOM TYPE	Mon, 3/16/15	Tue, 3/17/15	Wed, 3/18/15	Thu, 3/19/15
2 DOUBLE BEDS	20	50	50	50
2 DOUBLE BEDS W/ PARKVIEW	5	12	12	12
1 KING BED	10	20	20	20
1 KING BED WITH PARKVIEW	4	7	7	7
PRESIDENTIAL SUITE	1	1	1	1
Daily Total Room Nights	40	90	90	90

TOTAL SLEEPING ROOM NIGHTS RESERVED: 310

Group agrees that it will provide to Hotel information summarizing all events of a similar type to the one described in this Agreement that it holds between the date this Agreement is signed and the date of the Event described in this Agreement, no later than 60 days after each event is completed. This information will be used by Hotel to assist Group and Hotel in planning for this Event.

Summary Of Minimum Revenue Anticipated By Hotel From This Agreement	
Total Anticipated Sleeping Room Revenue:	\$33,674.00
Total Minimum Food & Beverage Revenue**:	\$15,000.00
Total Anticipated Meeting Room Rental/Exhibit Set-up Fees:	\$800.00
Ancillary and Other Revenue (Guestroom Incidental Charges):	\$3,100.00
"Total Minimum Anticipated Revenue":	\$53,026.00

** Does not include gratuities, service charges, labor fees, applicable federal, state or local taxes or any other fees outside of food and beverage product sales

Option Dates

These arrangements are being held on a **first option basis** until Tuesday, March 26, 2013 (the "Option Period"). However, should other business opportunities arise such that we are in a position to confirm immediately, you will be advised and given five (5) business days, or until the end of your Option Period (whichever is shorter) to confirm this Agreement on a definite basis by returning a signed copy of this Agreement to us, or so alternate dates can be researched and held for your use.



Please note that it is your responsibility to notify us if you need to request an extension of your Option Period. If we do not receive a signed copy of this Agreement by Tuesday, March 26, 2013, we may, at our sole option and with no notice required, release this first option, or may continue to hold the arrangements.

Sleeping Room Rates

The Hilton Vancouver Washington will offer the 2015 Prevailing Government Per Diem Rate your conference. The current 2013 Government Per Diem Rate is listed below for reference. 2015 Government Per Diem Rates will be confirmed October 1, 2014.

ROOM TYPE	Single Rate	Double Rate	Triple Rate	Quad Rate
2 DOUBLE BEDS	\$ 113.00	\$ 113.00	\$ 133.00	\$ 153.00
2 DOUBLE BEDS W/ PARKVIEW	\$ 113.00	\$ 113.00	\$ 133.00	\$ 153.00
1 KING BED	\$ 113.00	\$ 113.00	\$ 133.00	\$ 153.00
1 KING BED WITH PARKVIEW	\$ 113.00	\$ 113.00	\$ 133.00	\$ 153.00
PRESIDENTIAL SUITE	Complimentary	Complimentary	Complimentary	Complimentary

Sleeping room rates are net non-commissionable and are quoted exclusive of applicable state and local taxes, fees and assessments.

In addition to the Total Minimum Anticipated Revenue for your Event as set forth herein, you agree to pay any and all applicable federal, state, municipal or other taxes, fees, or assessments imposed on or applicable to your Event. In the State of Washington, currently the sales tax rate is 8.4%, and the hotel occupancy tax rate is 10.4%.

Quoted sleeping room rates will be offered, based on availability, to your attendees three (3) days before and three (3) days after the above dates.

Parking Arrangements

The **Hilton Vancouver Washington** has Self Parking [\$15.00/day] and Valet Parking [\$20.00/day] available in our underground parking facility. Additional parking is available for day use and supplemental parking at the Vancouver Center at the current rates of .75 per hour, Monday – Friday \$6.00 max until 6 p.m. \$8.50 max all day until close, \$2.50 max after 6 p.m. until close and weekend rate \$2.50 all day. The Hilton Vancouver Washington will provide Complimentary Self-Parking spaces to the group for guests registered within the Group Room block, limited to 90 vehicles per day.

Cut Off Date

All the rooms provided for in your Room Block will be reserved on a definite basis for you upon signing of this Agreement. In order to assign specific room types to your attendees we ask that all room requests be received twenty-one (21) days prior to your major arrival day of March 16, 2015. After that date, the Hotel will continue to hold any rooms in your Room Block not assigned to a specific attendee for your Group if you pay for them in full at that time. Rooms not guaranteed and paid for in full as of the Cut-Off Date will be released from your Room Block. You agree that the release of rooms will not affect the enforceability of this Agreement or your obligation to pay for unsold rooms in your Room Block. Advance payments will be refunded by the Hotel after your convention dates if rooms you paid for in advance were later paid for by your attendees. After the Cut-Off Date, your Group attendees may still request rooms based on availability. If you have not guaranteed such rooms by prepayment, such rooms will be available at the Hotel's prevailing rate.

Early Departure Fee

If a guest who has requested a room within your Room Block checks out prior to the guest's reserved checkout date, the Hotel will add an early checkout fee to that guest's individual account of \$50.00. Guests wishing to avoid an early checkout fee should advise the Hotel at or before check-in of any change in planned length of stay. The Hotel will inform your Group attendees of this potential charge upon check-in and requests that you also inform your attendees of this obligation. The Hotel will deduct any collected Early Departure fees from the amount you may owe as performance damages.

Check-In/Out Time

Our check-in time is 3:00 PM and check-out time is 12:00 PM. All guests arriving before 3:00 PM will be accommodated as rooms become available. Our Guest Services Department can arrange to check baggage for those arriving early when rooms are unavailable and for guests attending functions on departure day.

Complimentary Rooms

In consideration of your guest room commitment, we are pleased to extend one (1) complimentary room night per every 35 revenue room nights actually utilized within your official Room Block by your Group. A standard parlor of a suite is counted as one room, with a standard one-bedroom suite being counted as two rooms. Group should provide a list of names in order of preference for complimentary room assignment. If you fill all of the rooms reserved in your Room Block, you will be entitled to eight (8) complimentary room nights, valued at a minimum of \$904.00.

Additional Concessions

In consideration of the entire value your Event brings to the Hotel, we are pleased to offer the following concessions based on the achievement of 80% or greater of your Anticipated Sleeping Room Revenue and Food and Beverage Minimum as set forth in the Performance policies. These concessions are valued at **\$10,642.50**. If the Anticipated Sleeping Room Revenue materializes at less than 80%, the concessions will be reduced proportionately at the discretion of the Hotel or, at your request, provided and charged to your Master Account at retail value, in addition to any damages owed under the Performance policies. Please advise your Event manager no later than seven (7) days prior to first guest room arrival of your decision whether you prefer to have concessions reduced or if you want to retain and pay for them. If you elect to pay for unearned concessions, you agree that you will pay all applicable labor/union charges, state and local taxes, gratuity and/or service charges on all concessions provided.

Item	Retail Value	Units/Quantity	Duration	Concession	Retail Value	Savings
Presidential Suite	\$750.00 per night	1 each	4 nights	Complimentary	\$3,000.00	\$3,000.00
Self –Parking	\$15.00 per day	310 each	Event	Complimentary	\$4,650.00	\$4,560.00
Guestroom Internet Access	\$6.95	310 each	Event	Complimentary	\$2,154.50	\$2,154.50
Pre-Planning Guestrooms	\$169.00 each	2 each	1 night	Complimentary	\$338.00	\$338.00
WMCA-EC Meeting Space	\$500.00	1 each	1 day	Complimentary	\$500.00	\$500.00
Total Value/Savings					\$10,642.50	10,642.50

Room Assignments

We understand room assignments will be made directly by the attendee via the Internet using the **Personalized On Line Group Page**. Please visit <http://www.hilton.com/GroupPage> to create your Personalized Group Web Page at least one (1) week prior to when housing is scheduled to open.

Regardless of how your reservations are made, our online Guest List Manager is available to view and manage guest lists as well as view room count summaries for your Room Block. Your Event Manager will provide you with the brief instructions to access.

Audit of Attendees

We are pleased to offer **G.R.I.P.**, Hilton's proprietary Group Reservation Identification Program, which automates the process of cross referencing registration lists to identify rooms booked outside of the reserved Room Block. Your final report of consumed rooms will reflect all rooms associated with your Room Block, however credit toward performance damages, complimentary rooms, etc. for rooms booked outside of the reserved Room Block is subject to Hotel's discretion (based on factors including but not limited to the following: variables in rates, occupancy and channel of reservation). If you request a comparison through G.R.I.P., you will need to electronically provide the first and last names of attendees registered for your Event to the Hotel. Group agrees that Group takes full responsibility for (a) determining whether it is necessary to disclose to Group's attendees that information is being provided to Hotel by Group or vice versa which may be considered private or confidential, and for making such disclosure, if it is required, and (b) obtaining any necessary permissions from attendees allowing for such exchange of information. After comparing your list to the Hotel's guest registry, Hotel will advise you of the number of room nights occupied by your attendees reserved outside the official Room Block and the revenue generated by those room nights, which in Hotel's discretion will be added to your revenue achieved for purposes of determining your obligations under the Performance clause. If at any time you request Hotel to provide you the names of the guests who reserved rooms outside of the official Room Block, you agree to sign an addendum relating to use of G.R.I.P. for your Event and to fully indemnify, defend and hold harmless Hotel, Hilton Worldwide, Inc., and Hotel's Owner from and against any and all claims, settlements, judgments, fees or costs, including attorney's fees and expert witness fees and costs, incurred as a result of any claim by any person or entity arising out of the release of information about a guest or guests to you, as part of this comparison process. Your Event manager will discuss how Hotel can assist you in managing your attendees' booking behavior so that attendees will reserve rooms within the Room Block.

Hotel's Release of Names of Attendees within Room Block

Group has requested that Hotel provide Group and/or Group's representative(s) with access to guest reservation information pertaining to guests who have reserved rooms at the Hotel as part of the Group's Room Block (each, an "Attendee") established pursuant to this Agreement. Group certifies that it has obtained consent from each of its Attendees for the Hotel or Hilton Worldwide Inc. to provide to Group and/or Group's representative(s) such Attendee's reservation information and agrees to reimburse Hotel and Hilton Worldwide Inc. for any costs, damages, fees or expenses of any kind arising from any claim(s) by an Attendee relating to the Hotel's or Hilton Worldwide Inc.'s disclosure of reservation information.

Deposits/Confirmation

In order to confirm a room assignment for your Attendees, we will require them to provide a first night's deposit, refundable up to 72 hours in advance of your convention date. Checks and major credit cards are acceptable to establish prepayment. All credit cards used to prepay will be charged immediately. The Hotel will deduct any collected nonrefundable prepayment fees from the amount you may owe as performance or cancellation damages.

Unavailability of Guestrooms

The parties agree that on occasions due to unanticipated circumstances, the Hotel may not have rooms available for all guests who wish to check in on a particular night. While Hotel will use reasonable efforts to avoid such situation impacting Group, in the event any member of your Group Room Block with a confirmed reservation cannot be accommodated by the Hotel, the Hotel will provide the following:

1. Accommodations at a comparable hotel as close as possible and at no charge to the guest for each night the guest is displaced from the Hotel.
2. One daily complimentary round trip ground transportation between Hotel and the alternate hotel.
3. The Hotel will make necessary arrangements for the displaced guest's telephone messages and mail to ensure that they are properly forwarded.
4. Group will receive credit for any guests displaced toward its pick up for purposes of this Agreement.
5. If a room becomes available at the Hotel for the displaced guest and the guest elects not to return to the Hotel, the Hotel will have no further obligations under this clause.

Function Space/Fire Safety/Conduct of Event

Based on your requirements as you have indicated them to be, we have reserved the attached program of function space needs (See Schedule 1, attached). Meeting rooms may only be changes with the written approval of the group.

Based on the Anticipated Sleeping Room and Minimum Food and Beverage Revenue as indicated in this Agreement and the other anticipated revenues that Hotel will realize from this Event, the function space for your program will be provided on a complimentary basis, a savings of approximately \$25,000.00.

Should these commitments not materialize, then charges will be assessed for function space as set forth under the Performance policies.

Should extensive meeting room set-ups or elaborate staging be required, there will be a set-up charge to cover Hotel costs and additional labor. If equipment is necessary that exceeds Hotel's inventory, then Group agrees to pay for the cost of renting of additional equipment. In order to confirm meeting room assignments we ask that a formal program be provided to Hotel six (6) months prior to your major arrival day of March 16, 2015. After that date, the Hotel will release any meeting space in your schedule of events not assigned to a specific meeting or function for your Group. Should you require any rigging services for this Event, all such services must be arranged through the in-house audio-visual provider or the Hotel and you will be responsible for all costs associated therewith.

For the safety of persons and property, no fireworks or incendiary devices may be used indoors at the Hotel. All room sets must be in compliance with the local Fire Department regulations, including those pertaining to occupancy load, mandatory aisles, ceiling clearance and fire exits. Any Event that has vehicle displays, fog machines, fueled cooking demonstrations, lasers, exhibits (including tabletop) or extensive productions with staging and props, must have a certified permit from the local Fire Marshall. All associated fees for permits, floor plan approval and stand-by fire watch are your responsibility and final approved copies of all such permits must be provided to us at least three (3) days prior to your Event.

If, in the Hotel's sole discretion, your Event includes activities that present additional risks, including, but not limited to, vehicle displays, cooking demonstrations, medical procedures, or use of third party transportation providers, you will be required to execute and comply with the Hotel's then-current hold harmless agreement for such activity.

You assume full responsibility for the conduct of all persons in attendance at your Event and for any damage done to any part of our premises during the time of your Event, whether caused by you, your agents, employees, contractors or attendees, including any damage resulting from or connected with transportation, placing, removal or display of exhibits, displays or other items related to your Event. If you use the exhibition premises of the Hotel, you further assume responsibility for any claims arising out of the use of the exhibition premises of Hotel and you agree to be bound by the terms of the Exhibit entitled "Responsibility Clause for Exhibits" attached hereto.

You also agree that your use of function space will not create any disturbance to other guests or meetings, such as noise, smoke or fog machines, dry ice, confetti cannons, candles, incense, or any other activity that generates smells. You will not use such items without advance approval from Hotel. Hotel reserves the right to end your use of function space immediately if you do not promptly comply with Hotel's request to reduce or eliminate any such disturbance, in which case you will remain responsible for payment of all charges related to your use of function space and no refunds will be issued by Hotel.

Hotel understands the importance of your ability to use the function space held for your Event without significant outside noise or other distractions. If such problems occur, Hotel upon notification by Group will immediately take reasonable steps within its reasonable control to prevent such noise or other distractions from continuing.

Hotel understands that there may be persons or groups attending your Event who may wish to schedule additional meetings over your Event dates. These affiliated persons or entities will be expected to pay for the use of function space requested at the Hotel's published rates. Group confirms that the function space held pursuant to Schedule 1 is for the express use of official organization meetings or events and may not be "resold" by Group to affiliated groups, exhibitors or sponsors.

Exhibit Space

- A. **Number, Size and Type:** Twenty (20), 8 ft Tabletop Exhibits
- B. **Set-Up Date:** Tuesday, March 17, 2015 **Hours for Set-Up:** 6:00 PM – 11:00 PM
- C. **Tear-Down Date:** Thursday, March 19, 2015 **Hour for complete removal from Hotel:** 11:00 PM
- D. Tabletop Exhibits, include one (1) 8ft draped table, standard linen package, two (2) chairs and waste basket. Confirmed rates for 2015 event are \$40.00 per table. Auction Room tables are on a complimentary basis. Exhibit space rate does not include any electrical drops or internet services.
- E. **Discovery Pre-Function** is the designated exhibit area.
- F. **Name of Decorator:** T.B.D

The attached Exhibit entitled "Hotel's Guidelines for Exhibits" is incorporated herein by reference.

Banquet Services

Group has agreed to hold the food and beverage events set forth in the attached program schedule, or to provide a minimum of **\$15,000.00** in banquet food and beverage revenue. In order to schedule staff and order products for your functions, we require that your final menu selections and room set specifications be received thirty days (30) prior to your major arrival day of March 16, 2015. Your catering manager will provide you with Event Orders establishing the financial and operational requirements for your Event based on your selections and program. You will need to sign a confirmation of the Event Orders and return it to the Hotel. If you do not return the Event Orders as requested, they will be deemed accepted by you.

Because food and beverage prices fluctuate in accordance with market conditions, menu prices for planned food and beverage functions will be established not earlier than six (6) months prior to your Event. For your information and guidance, our current menu prices are as follows:

Breakfast:	from \$14.00 - \$20.00
Lunch:	from \$18.00 - \$27.00
Dinner:	from \$32.00 - \$59.00

Upon request, copies of proposed menus will be provided. The quotations listed do not include state and/or local taxes, which are currently 8.4% tax, service charges (see below) and gratuities (see below).

Until specific menus and prices are established, Hotel will compute any performance or cancellation damages due using the minimum revenue amount provided above.

The Hotel is licensed to serve food and beverages. No food or beverages may be brought into the Hotel by Group for service at this Event.

GRATUITY: 10.75% (or the current gratuity in effect on the day of the Event pursuant to the applicable collective bargaining agreement) of the food and beverage total plus any applicable state and/or local taxes will be added to your account as a gratuity and fully distributed to servers, and where applicable, bussers and/or bartenders assigned to the Event. The gratuity and any applicable taxes will be separately stated on the Hotel's invoice to Group.

SERVICE CHARGE: 11.25% (or the current service charge in effect on the day of the Event) of the food and beverage total, plus any applicable state and/or local taxes, will be added to your account as a service charge. This service charge is not a gratuity and is the property of Hotel to cover discretionary costs of the Event.

We will endeavor to notify you in advance of your Event of any increases to the gratuity and/or service charge should different amounts be in effect on the day of your Event.

Credit Arrangements

It is our understanding that all individuals who attend your meeting will be responsible for their own room, tax and incidental charges upon check-out.

Master Accounts

Group agrees to pay an initial deposit of \$5,000.00 no later than 90 days after receipt of a final signed Agreement from Hotel. It is our understanding you want to establish credit with us for the remaining Master Account charges for this Event. You will be presented with a credit application prior to August 1, 2014. Please complete the credit application and return it to the Finance department. If the application is not received by November 14, 2014 or not approved, you agree that the estimated Master Account charges are to be paid by company check, certified check or wire transfer for the entire estimated charges no later than fourteen (14) days in advance of Group's arrival date. The Hotel reserves the right to require additional advance payments of all or part of your estimated Master Account charges if your credit status changes after initial credit approval. If advance payments or deposits are not paid on a timely basis, the Hotel will have the right, at its option, to consider the Agreement cancelled and will be entitled to cancellation damages as provided in this Agreement.

On receipt of the credit application and approval, a Master Account will be set up for this Event. All charges posted to your Master Account should be approved in writing by you or your authorized designee. We would like to review the account with you daily to eliminate discrepancies. One-third of the Master Account will be paid before the Groups departure. You agree that the Master Account will be fully paid within 30 days after receipt of the bill. If any charges are disputed, all undisputed amounts will be paid within 30 days. All undisputed charges not paid within 30 days will be subject to interest accruing at the rate of 1 ½ % per month, or the highest rate permitted by law, until paid.

If you prefer, all Master Account charges can be paid by credit card. Hilton accepts American Express, Diners Club, Discover Card, JCB International, Master Card or Visa for Master Account payments. If credit has not been approved for your Event, you will provide us with the credit card to which all estimated Master Account charges will be charged no later than March 2, 2015. All estimated Master Account charges will be charged on that date. If you receive credit approval, we request that you provide us with your credit card information at departure, and we will charge the account when you advise us of your approval of the Master Account bill. If any charges are disputed, you agree that we may charge the undisputed charges to the account immediately and the remainder will be charged upon resolution.

Impossibility

Neither party shall be responsible for failure to perform this Agreement if circumstances beyond their control, including, but not limited to: acts of God; governmental authority; or declared war in the United States; make it illegal or impossible for Hotel to hold the Event. The affected party may terminate this Agreement without liability upon providing written notice to the other party within ten (10) days of the occurrence.

Performance and Cancellation Policies

Performance Policy

Prior to your Event, from time to time, at our option, we may review the number of requests for room assignments which have been made by your attendees in order to compare your obligations herein with your actual likely performance. Should it appear in advance of your Event that the actual number of attendees will fall below the attendance we expect based upon your reserved Room Block, the Hotel may assign alternate meeting space commensurate with your reduced space needs as indicated by your attendee's requests for room assignments, only upon your written approval and appropriately executed addendums.

Sleeping Room Performance Policy

The Total Sleeping Room Nights Reserved under this Agreement will generate **\$33,674.00** in revenue for Hotel ("**Anticipated Sleeping Room Revenue**"). If you do not use all of the sleeping rooms in your Room Block, you agree that the Hotel will suffer damages. Such damages will occur because Hotel will have lost the opportunity to offer your unused rooms to others either individually or as part of another block and will incur additional costs in attempting to resell inventory that was already sold. The parties agree that the exact amount of such damages will be difficult to determine. The parties agree that the liquidated damages clauses provided for in this Agreement are a reasonable effort by the parties to agree in advance on the damages that the Hotel will suffer due to your lack of performance. Therefore, the parties agree that if the contracted Event is held as scheduled, Hotel will not seek damages for Group's failure to use and pay for the Total Sleeping Room Nights Reserved if Group achieves a minimum of 80% of the Anticipated Sleeping Room Revenue. Should Group achieve less than this amount, Group agrees to pay to Hotel, as reasonable liquidated damages and not a penalty, the difference between 80% of the Anticipated Sleeping Room Revenue and the actualized guest room revenue received by

Hotel for rooms used and paid for as part of the official Room Block, plus any applicable state and local taxes as required by law, as a reasonable estimate of the Hotel's losses on sleeping rooms, ancillary revenue, costs of sale and other losses.

Food and Beverage Performance Policy

The guestroom rates and concessions outlined are based on Group's guaranteed expenditure of a minimum of **\$15,000.00** in banquet food and beverage, excluding taxes, gratuities and service charges ("**Minimum Food and Beverage Revenue**"). Should you fall short of this Minimum Food and Beverage Revenue whether due to reduction in size of your meeting, drop in attendance, change in food and beverage events or otherwise, you agree that the Hotel will suffer damages that will be difficult to determine. Therefore, you agree that you will pay the Hotel, as liquidated damages and not as a penalty, the amount equal to the difference between the guaranteed Minimum Food and Beverage Revenue and the actual food and beverage revenue amount received by Hotel for your Group's banquet food and beverage functions during your Event dates, plus any applicable state and local taxes as required by law. You agree that this charge is a reasonable estimate of the Hotel's losses on food and beverage.

For example, if the Minimum Food and Beverage Revenue is contracted at \$15,000.00 and if the actual expenditure during the Event is \$14,000.00, then the food and beverage performance damages will equal **\$1,000.00** (\$15,000.00 -\$14,000.00).

Once food and beverage functions have been established under the Event Orders sent to you by the Hotel, performance damages for food and beverage will be determined separately based on the terms of the Event Order(s) if anticipated revenue under the Event Orders is higher. At the time Event Orders are prepared, Hotel will advise Group if the food and beverage anticipated based on the Event Orders will achieve the Minimum Food and Beverage Revenue. If not, Hotel will supply Group with food and beverage options that would achieve the Minimum Food and Beverage Revenue. Group will have the option of altering the Event Orders to achieve the Minimum Food and Beverage Revenue, or paying the performance damages pursuant to this Food and Beverage Performance Policy.

All estimated sleeping room and/or food and beverage performance damages will be due and payable to the Hotel no later than seven (7) days prior to Group arrival date, regardless of Master Account credit status.

Cancellation Policy

Hotel has offered the favorable sleeping room rates and other concessions in this Agreement based upon the total anticipated revenues for your Event. If this Agreement is cancelled by Group, the parties agree that the Hotel will have lost the opportunity to offer your unused facilities to others either individually or as part of another block and will incur additional costs in attempting to resell inventory that was already sold. The parties agree that the exact amount of such damages will be difficult to determine. The parties agree that the liquidated damage clauses provided for in this Agreement are a reasonable effort by the parties to agree in advance on the damages that the Hotel will suffer due to a cancellation. Therefore, Group agrees that should it cancel its Event for any reason, including changing its meeting site to another hotel, that Group will pay as liquidated damages to the Hotel immediately upon notice of cancellation a percentage of the total minimum revenues anticipated by the Hotel for your Event plus any applicable state and local taxes as required by law, as follows:

Date of Hotel's Receipt of Cancellation Notice*	Percentage of Total Minimum Anticipated Revenue	Amount of Cancellation Damages
Cancellation between date of signing and March 16, 2014:	20% =	\$10,605.20, plus tax
Cancellation between March 17, 2014 and September 16, 2014:	40% =	\$21,210.40, plus tax
Cancellation between September 17, 2014 and March 16, 2014:	60% =	\$31,815.60, plus tax

**Hotel may, in its sole discretion, consider your notice of cancellation to be invalid and thus may not release accommodations held until payment of the cancellation damages is received; therefore delay in payment may result in higher cancellation damages being owed.*

Total Minimum Anticipated Revenue for this Event is **\$53,026.00**, plus tax.

"**Total Minimum Anticipated Revenue**" includes revenue from the total sleeping room nights reserved in the "Room Block" on page 1 of this Agreement at the gross rates established herein (less complimentary rooms), food and beverage events at the minimum per person charge as set forth in your Event Orders or minimum revenue guarantee, meeting room rental as agreed and ancillary revenues which the Hotel expects to receive from your attendees, such as telephone tolls, in-room movies, room service, outlet usage and similar charges. If this Event is canceled prior to the time that specific sleeping room rates are agreed upon or exhibit space rates are established, then our current room rates and current exhibit space rates, as set forth herein, will be used in calculating the Hotel's anticipated gross revenues. Ancillary revenues will be calculated using the average daily per occupied room ancillary revenue for the same month as the convention from the most recent year available.

Outside Contractors

Should Group elect to utilize outside contractors or subcontractors on Hotel premises during your Event, including, but not limited to, a destination management company, audio/visual services, decorators, or others, you must notify Hotel of your intention to use such providers at least thirty (30) days in advance of your Event. Your outside contractors must sign a hold harmless, indemnification and insurance agreement as in the attached Exhibit entitled "Hold Harmless Agreement – Outside Contractors" in favor of Hotel, Hilton Worldwide, Inc., Hotel's Owner and Group, and provide proof of insurance in amounts acceptable to Hotel (amounts and types of insurance may be changed or increased in Hotel's sole discretion based on the type of services the outside contractor will be providing) before they will be allowed to provide services on Hotel premises. In some instances, Hotel may be required, pursuant to obligations imposed on Hotel by labor unions or collective bargaining agreements, to utilize Hotel labor to provide certain services, and Group agrees to pay the fees and/or charges associated with these services.

Security

If required, in Hotel's sole judgment, in order to maintain adequate security measures in light of the size and/or nature of your Event, you will provide, at your expense, security personnel supplied by a reputable licensed guard or security agency doing business in the city or county in which we are located, which agency will be subject to Hotel's prior approval. Such security personnel may not carry weapons. Your security agency must sign a hold harmless, indemnification and insurance agreement in the form currently in use at Hotel in favor of Hotel, Hilton Worldwide, Inc., Hotel's Owner and Group, and provide proof of insurance in amounts acceptable to Hotel before they will be allowed to provide security services on Hotel premises.

Indemnification

To the fullest extent permitted by law, you agree to protect, indemnify, defend and hold harmless the Hotel, Hilton Worldwide, Inc. and the Hotel's Owner, and their respective owners, managers, partners, subsidiaries, affiliates, officers, directors, employees and agents (collectively, the "Hotel Indemnified Parties"), from and against any and all claims, losses or damages to persons or property, governmental charges or fines, penalties, and costs (including reasonable attorney's fees) (collectively, "Claim(s)"), in any way arising out of or relating to the Event that is the subject of this Agreement, and regardless of negligence, including, but not limited to, Claims arising out of the negligence, gross negligence or intentional misconduct of Group's employees, agents, contractors, and attendees; provided, however, that nothing in this indemnification shall require you to indemnify the Hotel Indemnified Parties for that portion of any Claim arising out of the sole negligence, gross negligence or intentional misconduct of the Hotel Indemnified Parties.

Insurance

You agree to maintain insurance reasonably commensurate with all activities arising from or connected to your Event, including, but not limited to, Commercial General Liability insurance with limits not less than Two Million US dollars (\$2,000,000 US) per occurrence covering property damage, products-completed operations, and liability assumed under an insured contract, including the tort liability of another assumed in a business contract. You agree to add Hotel Indemnified Parties as additional insured's under all applicable policies for your Event, and your insurance will apply as primary to any insurance maintained by the Hotel Indemnified Parties. You agree not to endorse or change your insurance to make it excess over other available insurance. Neither your failure to provide, nor our failure to obtain, proof of compliance shall act as a waiver of any of term in this Agreement.

Dispute Resolution

The parties agree that, subject to the exclusion of intellectual property matters as set forth below, any dispute in any way arising out of or relating to this Agreement will be resolved by arbitration using one arbitrator before JAMS or American Arbitration Association in the state and city in which Hotel is located, or the closest available location; provided, however, a dispute relating to patents, trademarks, trade dress, copyrights, trade secrets, and/or infringement of intellectual property rights shall not be subject to this provision. The parties further agree that in any arbitration proceeding, they may conduct reasonable discovery pursuant to the arbitration rules, that the law of the state in which Hotel is located will be the governing law, and any arbitration award will be enforceable in State or Federal court.

Disputes Involving Credit Card Payments

As a condition of Hotel agreeing to accept your credit card as an approved form of payment for all master account charges, you specifically agree to waive any rights you may have under applicable state and federal truth in lending laws or otherwise (including, but not limited to, under your credit card issuer's procedures for resolving such disputes) to receive a temporary credit from your credit card issuer for disputed charges arising from your credit card transactions with Hotel (commonly referred to as a "chargeback"). You agree that any disputes that you may raise with respect to any Master Account charges must be addressed directly by you and Hotel, and the parties agree to work in good faith to resolve any such disputed

invoices in a timely manner. Any dispute that cannot be timely resolved to the mutual satisfaction of the parties shall be submitted to arbitration in accordance with the arbitration provisions as contained in this Agreement.

Attorney's Fees/Costs

The parties agree that the prevailing party in any arbitration or court proceeding arising out of or related to this Agreement will be entitled to recover an award of its attorney's fees and expert witness fees, costs and pre and post judgment interest at the highest available legal rate. The parties further agree that if Hotel must retain counsel or initiate arbitration or legal action to collect of any monies owed to Hotel by Group under this Agreement, whether or not an arbitration or court action is filed, Hotel will be entitled to recover its attorney's fees incurred in such efforts to collect.

Disclaimer/Limitation of Liability

Group agrees that in no event shall Hotel, Hotel's Owner, Hilton Worldwide, Inc. or any of their subsidiaries, owners or affiliates be liable for (1) any services or products provided by any third party supplier (including, but not limited to, companies that provide meeting registration or management services); or (2) any liability arising out of any agreement between Group and any third party supplier. In no event shall Hotel, Hotel's Owner, or Hilton Worldwide, Inc. be liable for any indirect, consequential, special, incidental or punitive damages of any kind regardless of whether such claim arises in tort or in contract, even if such damages were foreseeable.

Auxiliary Aids

The Hotel represents that it contains accessibility features for individuals with disabilities and, where needed, the Hotel will provide equivalent facilitation, auxiliary aids and services, and reasonable modifications to policies and procedures to ensure that its guests have equivalent access to its goods, services, and accommodations. Except as required by applicable laws, you agree that you will be responsible for the procurement and payment of all charges for auxiliary aids and services required by your Event or program attendees in the meeting or function space that you have reserved. We will, upon your request, furnish you with the names of businesses you can contact to obtain these aids. You agree that one week in advance of your Event you will furnish to us a list of any auxiliary aids and/or services that you will be providing for your attendees in the meeting or function space that you have reserved. You also agree to be responsible for compliance with the Americans with Disabilities Act in the set up and conduct of meetings for your Event.

Compliance with Laws

Group represents, warrants and agrees that Group is currently, and at the time of the Event that is the subject of this Agreement will be, in compliance with all provisions of the Patriot Act and regulations or requests of the U.S. Department of Homeland Security and the Office of Foreign Assets Control in the U.S. Department of the Treasury. Hotel may cancel this Agreement without any liability if in the Hotel's sole, reasonable determination, Hotel believes that it is necessary to do so in order to comply with its obligations under such applicable laws, rules or regulations.

Renovation/Remodeling

As of the date of the signing of this Agreement, Hotel has no plans for renovation or remodeling of any facilities that will be utilized by Group pursuant to this Agreement, other than ordinary maintenance. If after this Agreement is signed, Hotel confirms any plans to remodel or renovate its facilities, Hotel agrees to inform Group in writing within a reasonable amount of time of the following:

- a. Planned scope of project;
- b. Schedule for commencement and completion;
- c. Anticipated impact project will have on areas to be utilized by Group; and
- d. Hotel's plan for minimizing impact of project on Group.

Hotel's plan to renovate or remodel will not constitute grounds for termination of this Agreement unless mutually agreed upon by both parties. The parties agree to negotiate in good faith to resolve any concerns raised as a result of renovations or remodeling and to enter into such amendments of this Agreement as may be necessary to reasonably accommodate both parties' interests.

Promotional Considerations

Hotel has the right to review and approve any advertisements or promotional materials in connection with Group's Event that specifically reference the name of the Hotel or a name or logo owned by a subsidiary of Hilton Worldwide, Inc., including, but not limited to: Hilton, Hilton Hotels & Resorts, Home2 Suites by Hilton, Hilton Grand Vacations, Hampton Inn, Hampton Inn & Suites, Doubletree, Conrad, Homewood Suites by Hilton, Embassy Suites Hotels, Waldorf-Astoria and Waldorf-Astoria Collection. You agree that we may share your meeting and meeting planner information with our third party providers who offer support services to groups holding events at our Hotel, including audio/visual services, decorators, florists, and others.

Successors and Assigns

The commitments made by Group will be binding on its successors and assigns. In the event that Group assigns, sells, conveys, pledges or otherwise disposes of all or substantially all of its assets (collectively referred to as "assignment"), by operation of law or otherwise, this agreement and the obligations herein must also be assigned to and assumed by the successor organization, subject to approval by Hotel. In the event such an assignment is contemplated, Group agrees to notify Hotel at least thirty (30) days in advance of the planned close of the assignment transaction of the entities involved. Hotel will thereafter have twenty (20) days in which to notify Group if assignment is approved. Group may not otherwise assign this Agreement or any rights hereunder. In no event may Group transfer or resell its rights under this Agreement to any third party room reseller for any purposes, including but not limited to reselling cancelled or unused portions of the Room Block. Group and Hotel are the only parties to this Agreement.

Amendments/Changes

If this Agreement is returned signed but with changes, it shall not constitute an acceptance, but rather a counteroffer by you that may be accepted or rejected by the Hotel in our sole discretion. This Agreement will become a binding commitment upon signature by both you and us (even if signed after the Option Period). Any amendments or changes to the arrangements described in this Agreement must be made in writing, signed by both you and us; provided, however, that this Agreement includes all signed or unsigned Event Orders (and the terms and conditions contained therein and attached thereto) issued by us for this and related events and that your final guarantee of attendance may be made by phone.

This Agreement, including all exhibits attached hereto (if any), upon signature by both parties below, constitutes the entire understanding between the parties and may not be amended or changed unless done so in writing and signed by Hotel and Group. For purposes of this Agreement and any amendment or modification thereto, or for any other notice or communication between the parties, signatures sent or received by email with a scanned document with signature attached or facsimile transmission will be considered as enforceable and valid as an original signature by the party signing. The effective date of communications between the parties will be determined as follows:

- (a) Communications sent via U.S. Mail or private mail delivery service (i.e. Fed Ex) will be effective as of the date sent; or
- (b) Communications sent via facsimile will be considered effective as of the date and time on the facsimile confirmation sheet retained by the sender.

For the avoidance of doubt, emails, including emails that bear an electronic "signature block" identifying the sender, do not constitute signed writings for purposes of this Agreement.

Severability

Any provision in this Agreement that is held to be illegal or unenforceable in any jurisdiction shall be ineffective to the extent of such illegality or unenforceability without invalidating the remaining provisions and any such illegal or unenforceable provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law. Our failure to enforce any term or condition of this Agreement does not waive our right to enforce that or any other term or condition at any time.

The undersigned expressly agree and warrant that they are authorized to sign and enter into this Agreement on behalf of the party for which they sign.

ACCEPTED AND AGREED TO:

GROUP:
Washington Municipal Clerks Association

HOTEL:
Downtown Redevelopment Authority
d/b/a **Hilton Vancouver Washington**
By Hilton Management, LLC, Managing Agent

By: _____

By: _____

Name: Ms. Diana Quinn, President Elect -2015

Name: Rob White, Senior Sales Manager

Dated: _____

Dated: _____

EXHIBIT A

RESPONSIBILITY CLAUSE FOR EXHIBITS

Washington Municipal Clerks Association (the "Group") shall assume responsibility for any claims arising out of the use of the exhibition premises of the Hotel. In this regard, the Group agrees to indemnify, defend and hold harmless the Hotel, Hilton Worldwide, Inc., and the Hotel's Owner, and their respective owners, managers, subsidiaries, affiliates, agents and employees from and against any claims or expenses arising out of the use of the exhibition premises.

The Group agrees to obtain and maintain during the use of the exhibition premises, Comprehensive General Liability Insurance, including contractual liability covering the Group's indemnity in this Responsibility Clause. Such insurance shall be in the amount of not less than \$1,000,000 combined single limit for personal injury and property damage. The Hotel, Hilton Worldwide, Inc., the Hotel's Owner, and each of such entities' owners, subsidiaries and affiliates (collectively, "Hotel Parties") shall be named as additional insured's on such policy, and Group shall supply the Hotel with Certificates of Insurance at least 30 days prior to the use of the exhibition premises.

In order to protect Group and the Hotel, the Group agrees to include the following Responsibility Clause in the exhibitor contract between Group and Exhibitor:

Exhibitor assumes responsibility and agrees to indemnify, defend and hold harmless Hotel, Hilton Worldwide, Inc., and the Hotel's Owner, and their respective owners, managers, subsidiaries, affiliates, employees and agents (collectively, "Hotel Parties"), and Group from and against any claims or expenses arising out of the use of the exhibition premises.

Exhibitor agrees to obtain and maintain during the use of the exhibition premises, Comprehensive General Liability Insurance, including contractual liability covering the Exhibitor's indemnity in this Responsibility Clause. Such insurance shall be in the amount of not less than \$1,000,000 combined single limit for personal injury and property damage. The Hotel, Hilton Worldwide, Inc. the Hotel's Owner, and each of such entities' owners, subsidiaries and affiliates (collectively, "Hotel Parties") and Group shall be named as additional insured's on such policy, and Exhibitor shall supply the Hotel with Certificates of Insurance at least 30 days prior to the use of the exhibition premises.

The Exhibitor understands that neither the Group nor the Hotel Parties maintain insurance covering the Exhibitor's property and it is the sole responsibility of the Exhibitor to obtain such insurance.

ACCEPTED AND AGREED TO:

GROUP:
Washington Municipal Clerks Association

HOTEL:
Downtown Redevelopment Authority
d/b/a **Hilton Vancouver Washington**
By Hilton Management, LLC, Managing Agent

By: _____

By: _____

Name: Ms. Diana Quinn, President Elect -2015

Name: Rob White, Senior Sales Manager

Dated: _____

Dated: _____

SCHEDULE 1
SCHEDULE OF EVENTS AND FUNCTION SPACE CHARGES

Day/Date	Start Time	End Time	Function	Room	Setup	Agr
Mon, 3/16/15	3:00 PM	11:00 PM	Office/Storage	Alder	Office	
Mon, 3/16/15	3:00 AM	11:00 PM	Auction Room	Discovery DE	Tabletop Exhibit 8 ft	
Day #1						
Tue, 3/17/15	6:00 AM	11:00 PM	Office/Storage	Alder	Office	
Tue, 3/17/15	8:00 AM	5:00 PM	Meeting/Session	Discovery Ballroom AB	Classroom 8 ft	80
Tue, 3/17/15	8:00 AM	11:00 PM	Auction Room	Discovery DE	Tabletop Exhibit 8 ft	
Tue, 3/17/15	12:00 PM	1:00 PM	Lunch	Discovery C	Rounds of 8	80
Tue, 3/17/15	3:00 PM	6:00 PM	Registration	Discovery Pre-Function	Registration	
Tue, 3/17/15	5:00 PM	7:00 PM	Reception Stations	Heritage Ballroom EF	Reception	120
Tue, 3/17/15	6:00 PM	11:00 PM	Setup	Discovery Pre-Function	8 ft Tabletop Exhibits	20
Day #2						
Wed, 3/18/15	6:00 AM	11:00 PM	Office/Storage	Alder	Office	
Wed, 3/18/15	7:00 AM	6:00 PM	Registration	Discovery Pre-Function	Registration	
Wed, 3/18/15	7:00 AM	11:00 PM	Auction Room	Discovery DE	Tabletop Exhibit 8 ft	
Wed, 3/18/15	7:00 AM	8:00 AM	1 st Timers Brakfast	Heritage Ballroom E	Rounds of 8	60
Wed, 3/18/15	7:00 AM	8:00 AM	Breakfast	Heritage Ballroom EF	Rounds of 8	60
Wed, 3/18/15	8:00 AM	11:00 PM	Vendor Exhibits	Discovery Pre-Function	8 ft Tabletop Exhibits	20
Wed, 3/18/15	8:00 AM	10:00 AM	General Session	Discovery Ballroom AB	Classroom 8 ft	120
Wed, 3/18/15	10:00 AM	10:30 AM	Break w/ Exhibitors	Discovery Pre-Function	Buffet	120
Wed, 3/18/15	10:30 AM	5:00 PM	Breakout Meeting #1	Discovery A	Classroom 8 ft	40
Wed, 3/18/15	10:30 AM	5:00 PM	Breakout Meeting #2	Discovery B	Classroom 8 ft	40
Wed, 3/18/15	10:30 AM	5:00 PM	Breakout Meeting #3	Discovery C	Classroom 8 ft	40
Wed, 3/18/15	12:00 PM	1:00 PM	Lunch	Heritage Ballroom EF	Rounds of 8	120
Day #3						
Thu, 3/19/15	6:00 AM	11:00 PM	Office/Storage	Alder	Office	
Thu, 3/19/15	7:00 AM	6:00 PM	Registration	Discovery Pre-Function	Registration	
Thu, 3/19/15	7:00 AM	8:00 AM	Breakfast	Heritage Ballroom EF	Rounds of 8	120
Thu, 3/19/15	8:00 AM	11:00 PM	Auction Room	Discovery DE	Tabletop Exhibit 8 ft	
Thu, 3/19/15	8:00 AM	11:00 PM	Vendor Exhibits	Discovery Pre-Function	8 ft Tabletop Exhibits	20
Thu, 3/19/15	8:00 AM	10:00 AM	General Session	Discovery Ballroom AB	Classroom 8 ft	120
Thu, 3/19/15	10:00 AM	10:30 AM	Break w/ Exhibitors	Discovery Pre-Function	Buffet	120
Thu, 3/19/15	10:30 AM	5:00 PM	Breakout Meeting #1	Discovery A	Classroom 8 ft	40
Thu, 3/19/15	10:30 AM	5:00 PM	Breakout Meeting #2	Discovery B	Classroom 8 ft	40
Thu, 3/19/15	10:30 AM	5:00 PM	Breakout Meeting #3	Discovery C	Classroom 8 ft	40
Thu, 3/19/15	12:00 PM	1:00 PM	Lunch	Heritage Ballroom EF	Rounds of 8	120
Thu, 3/19/15	5:00 PM	6:00 PM	Exhibitor Reception	Discovery Pre-Function	Reception	120
Thu, 3/19/15	6:00 PM	9:00 PM	Annual Banquet	Heritage Ballroom EF	Rounds of 8	120
Thu, 3/19/15	7:00 PM	11:00 PM	Exhibits Teardown	Discovery Pre-Function	8 ft Tabletop Exhibits	20
Day #4						
Fri, 3/20/15	6:00 AM	12:00 PM	Office/Storage	Alder	Office	
Fri, 3/20/15	8:00 AM	9:00 AM	Breakfast	Pine/Spruce	Rounds of 8	100
Fri, 3/20/15	8:00 AM	12:00 PM	General Session	Hemlock/Oak	Theater	100
Fri, 3/20/15	12:00 PM	3:00 PM	Board Meeting & Lunch	Restaurant & Private Room	Conference	15

EXHIBIT B
GRIP AUDIT INDEMNITY AGREEMENT ADDENDUM

The undersigned, on behalf of Washington Municipal Clerks Association ("Group") has requested that Hilton Vancouver Washington ("Hotel") conduct an audit of its guest registration to determine if any of Group's attendees are staying at the Hotel but have not identified themselves as members of Group and/or have not reserved their room as part of Group's block. Group will provide a list of the registrants for its Event to Hotel.

Group agrees to indemnify, defend and hold harmless Hotel, Hilton Worldwide, Inc., and the Hotel's Owner, and their respective owners, managers, subsidiaries, affiliates, agents and employees of and from any and all claims, settlements, judgments, fees, or costs (including attorney fees and expert witness fees and costs) of any kind or description in any way arising out of or related to Hotel providing information to Group regarding persons staying at Hotel, including, but not limited to, claims that the Hotel disclosed private information without permission. Group agrees that it takes full responsibility for (1) determining whether it is necessary to disclose to its attendees that information is being provided to Group by Hotel which may be considered private or confidential and for making such disclosure if it is required and (2) obtaining any necessary permissions from attendees allowing Hotel or Hilton Worldwide, Inc. to provide such information to Group.

This Addendum is an amendment to the agreement between Hotel and Group for the event scheduled to take place at Hotel March 16, 2015 - March 20, 2015 (the "Agreement"). All terms not defined in this Addendum shall have the meaning given to them in the Agreement. All other terms and conditions of the Agreement remain in full force and effect.

The undersigned is an authorized agent of Group with express authority to request the audit and to agree to the indemnity obligations described in this Addendum.

GROUP:
Washington Municipal Clerks Association

HOTEL:
Downtown Redevelopment Authority
d/b/a **Hilton Vancouver Washington**
By Hilton Management, LLC, Managing Agent

Dated: _____

Dated: _____

By: _____

By: _____

Printed
Name: Ms. Diana Quinn

Printed
Name: Rob White

Title: President – Elect 2015

Title: Senior Sales Manager



- First Quarter Report (June Mtg)
- Second Quarter Report (Oct Mtg)
- Third Quarter Report (Jan Mtg)
- Year-End Report (Mar Mtg)

TO: WMCA President and Executive Committee

FROM: Bobbie Usselman

COMMITTEE: Awards Committee

DATE: February 25, 2013

SUMMARY OF ACTIVITIES: The call for Clerk of the Year nominations was included in the October newsletter, along with a letter being sent to all supervisors in November and a reminder postcard was sent in December. Seven applications were received. The applications were sent to Committee members for ranking. The rankings were consolidated and the information was given to the President for selection at the January WMCA Board meeting.

The President made her selection and the rest is history.

ACTION REQUESTED: YES NO

RECOMMENDATION:

ALTERNATIVES:

FISCAL IMPACT: At this writing the cost of the trophy is unknown, but should be within budget.

Revenues:	Budgeted Amount	Revenues Generated
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
Expenditures:	Budgeted Amount	Amount encumbered & expended
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____



- First Quarter Report (June Mtg)
- Second Quarter Report (Oct Mtg)
- Third Quarter Report (Jan Mtg)
- Year-End Report (Mar Mtg)

TO: WMCA President and Executive Committee

FROM: Michelle M. McGehee, MMC

COMMITTEE: Bylaws Committee

DATE: February 8, 2013

SUMMARY OF ACTIVITIES: The Bylaws Committee was called to service upon a request from the Executive Committee to form an amendment that:

- (1) removes the voting requirement for the position of President-Elect;
- (2) makes clear that the position of Vice-President involves a 4-year commitment; and
- (3) anyone seeking to be elected to the position of Vice-President must have served on the Executive Committee for at least one full year upon taking office of Vice-President.

The rationale for the requested amendment is as follows: To maintain continuity of leadership and familiarity with WMCA policies and procedures. Under the current bylaws, anyone can run for President-Elect, which means that with only one year of experience, a person in this position would have the potential of finding themselves in the position of Association President; and would be expected to lead the Association with limited years of experience. Building the relationships in the Executive Committee and on committees, and understanding pertinent Association issues, takes time.

ACTION REQUESTED: YES NO

RECOMMENDATION: Notice the amendment and present to the general membership for their consideration.

It is unclear from the current job description if the scope of this committee includes making recommendations on bylaw amendments requested. At this time, the committee makes no recommendation - but does include the following general comments for your information:

- Dissention was heard regarding the requirement of Vice-president to have mandatory one-year participation on the Executive Committee prior to taking the office of Vice-president. The concern expressed related to the total time commitment in possible years committed by one Association member while serving in various different positions prior to taking office as Vice-president. Also expressed was concern related to restricting the number of total open positions available to the general

membership for elected office without having an election to determine if the person in the position is holding up the responsibilities of their office.

-Another concern expressed was that the amendment would dissuade members from opting to run for higher level positions in the Association due to the time commitment; and instead of making the proposed amendment, perhaps focus should be placed on the issue of attracting more members to run for higher offices in the Association.

- The desire to consider striking the position of President-elect in its entirety and combining the office of President-elect into the office of the Vice-president was noted.

- Support of the amendments, as proposed, was also heard.

ALTERNATIVES: (1) Do not present the proposed amendment. The bylaws would remain as currently written; and (2) strike the office of President-elect, combining these duties with the office of Vice-president.

FISCAL IMPACT: None.

Revenues:	Budgeted Amount	Revenues Generated
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
Expenditures:	Budgeted Amount	Amount encumbered & expended
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____



- First Quarter Report (June Mtg)
- Second Quarter Report (Oct Mtg)
- Third Quarter Report (Jan Mtg)
- Year-End Report (Mar Mtg)

TO: WMCA President and Executive Committee

FROM: Paula Swisher, Conference Planning Chair

COMMITTEE: Conference Planning

DATE: March 1, 2013

SUMMARY OF ACTIVITIES: Purchased decorations, had a work party to put them together, had signs, name badges, meal tickets made, staffed registration desk and meal ticket takers, obtained 21 vendors and had 7 sponsors (1 diamond, 4 platinum, 2 bronze). Everything seems to be coming together nicely and we should all be enjoying another wonderful conference for 2013.

ACTION REQUESTED: YES NO

RECOMMENDATION:

ALTERNATIVES:

FISCAL IMPACT:

Revenues:	Budgeted Amount	Revenues Generated
VENDORS _____	\$ 7,500 _____	\$ 10,500 _____
SPONSORSHIPS _____	\$ 3,500 _____	\$ 3,750 (cash) \$6,850 (bags, scholarship, speaker fees)

Expenditures:	Budgeted Amount	Amount encumbered & expended
Decorations _____	\$ 2,000 _____	\$ 1,987.07 _____
Supplies _____	\$ _____	\$ 152.98 _____
_____	\$ _____	\$ _____



- First Quarter Report (June Mtg)
- Second Quarter Report (Oct Mtg)
- Third Quarter Report (Jan Mtg)
- Year-End Report (Mar Mtg)

TO: WMCA President and Executive Committee

FROM: Virginia Olsen and Debbie Clark

COMMITTEE: Education Committee

DATE: March 3, 2013

SUMMARY OF ACTIVITIES: Thanks to our committee for helping make 2012-2013 a great year! In addition to our committee, we worked closely with Northwest Clerks Institute Director Dema Harris and also sought guidance from former Education Committee Chair Pam Kolacy. We couldn't have succeeded without their assistance.

Fall Academy:

This year's fall academy in Yakima featured Jordan Peabody and with 48 attendees, we made about \$3,600. In 2011, we had 60 attendees and had a profit of about \$2,200. It makes a big difference when we can find quality speakers at an affordable price. We thank NCI Director Dema Harris and Maura Maye from Pierce County for their assistance in finding speakers this year. With attendance trending downward, we recommend continuing holding one fall academy in an affordable location in the middle part of the state.

Annual Conference:

As of March 1, we have 113 registered (including 5 VIPs) for our annual conference with 59 registered for spring academy. We budgeted for 120 and 60, respectively, so we are a little bit under what was budgeted. With all but one speaker being local, we will have substantial savings on travel expenses. In addition, we were able to obtain three speaker sponsorships again from AWC Employee Benefit Trust and WCIA. These companies will be recognized as premium sponsors through our sponsorship program. For comparative purposes, we had about 100 and 47 attendees at the 2012 conference, although it was likely impacted by the IIMC Conference being held in Portland, OR. There were 72 Washington Clerks who attended the IIMC conference.

We are very excited to offer some new speakers and fresh topics at our annual conference. Our Spring Academy speaker is Kathie Novak who is the Colorado Municipal Clerks Association's Institute Director. This year's keynote speaker is LueRachelle Brim-Atkins from the Seattle Speaker Bureau who will talk about embracing change. LueRachelle is going to stay and do a full-conference session on diversity after lunch on Wednesday. Another change this year is splitting Friday morning into two sessions with Paul Figueroa up first speaking about bullying and then closing with Lee Williams presenting "Humor in the Workplace".

Northwest Clerks Insitute (NCI) Committee:

Last year's Institute did not include a Master Academy due to the IIMC Conference being held in Portland, OR just a few weeks before. NCI had 41 attendees for PD 1, 35 for PD II and 31 for PD III and came up about \$515 short of breaking even. The shortfall was divided equally among the three state associations.

Other work this year included approval of an updated contract with Washington State University for the Northwest Clerks Institute. The contract puts the financial obligation for solvency of the professional development program on the three state associations. Institute Director Dema Harris stressed the importance of each state working hard to market NCI to new and current members and do what we can to ensure the Institute is full. We would like to recognize Dema Harris for her hard work in working with WSU and pulling this agreement together. She also worked diligently to propose changes to make the NCI budget balance. Dema has also done a great job coordinating with Membership Committee Chair Ronald Moore to ensure new members are aware of NCI and our certification program.

Finally, this year NCI moved to an online brochure and registration to save money on postage.

Other:

Patti Crane from WCIA has asked what their organization can do to help WMCA. They have been sponsoring speakers but we need to think of other ways they might be able to assist WMCA or perhaps NCI.

It's been a pleasure to serve WMCA as Education Committee Chairs for the past two years. Due to the time commitment involved along with our personal and professional commitments, we are passing the torch to Carol Etgen who has previously chaired this committee and has been an active member of the committee for the past several years. Thank you, Carol, for taking on this responsibility as education is a subject that is near and dear to our hearts.

ACTION REQUESTED: YES NO

RECOMMENDATION:

ALTERNATIVES:

FISCAL IMPACT:

Revenues:	Budgeted Amount	Revenues Generated
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
Expenditures:	Budgeted Amount	Amount encumbered & expended
_____	\$ _____	\$ _____



- First Quarter Report (June Mtg)
- Second Quarter Report (Oct Mtg)
- Third Quarter Report (Jan Mtg)
- Year-End Report (Mar Mtg)

TO: WMCA President and Executive Committee

FROM: Kay Kammer

COMMITTEE: Fundrasing

DATE: March 1, 2013

SUMMARY OF ACTIVITIES:

AUDIT: Prepared inventory list for the audit committee.

RAFFLES: 50/50 raffle tickets were sold at the Fall Academy raising \$77.50. Grand raffle tickets are being sold and have raised \$615.00 as of March 1. Goal is to sell 1,500 tickets for the Grand Raffle. \$1.00 raffle to be held with various prizes and the \$100 given away during the last session.

STORE INVENTORY: Executive Committee provided direction for new logo items that included oversized coffee mugs, water tumblers, fleece jackets and collared sweatshirts. Items have been ordered and received from 4imprint for a total cost of \$3,319.35. The costs included \$110 in the new logo set up charges.

TOTAL COSTS:

Coffee mugs	Qty: 72	\$436.94	Selling price \$10.00*
Water tumblers	Qty: 144	\$871.35	Selling price \$10.00*
Fleece jacket	Qty: 72	\$968.81	Selling price \$35.00
Sweatshirt	Qty: 72	\$1,042.25	Selling price \$35.00

*2 items for \$18.00

Prior years inventory includes fleece vests, 40th anniversary sweatshirts, long sleeved t-shirts, hoodies, pajama pants and beaded lanyards will be on a blow out sale.

AUCTION: The oral auction will be held during Wednesday evening activities. The silent auction will open Wednesday and will close at 1:00 pm on Thursday. We are not able to open the silent auction earlier due to scheduling conflicts at the hotel and the room availability.

GAMES/ACTIVITES: Need confirmation from EC if they would like to participate in a game/activity for raising money or have the attendees participate and what would EC like to do.

MISCELLANEOUS: Clerks will again be able to run tabs for purchases and pay one time after the auction.

ACTION REQUESTED: YES NO

RECOMMENDATION:

ALTERNATIVES: EC to provide direction on any other fundraising ideas they would like to implement.

FISCAL IMPACT:

Revenues:	Budgeted Amount	Revenues Generated
<u>50/50 raffle at Fall Academy</u>	\$ _____	\$ <u>77.50</u>
<u>Grand Raffle (through February)</u>	\$ _____	\$ <u>615.00</u>
Expenditures:	Budgeted Amount	Amount encumbered & expended
<u>Store inventory</u>	\$ _____	\$ <u>3,319.35</u>
<u>Postage</u>	\$ _____	\$ <u>9.14</u>
<u>\$1.00 Raffle tickets</u>	\$ _____	\$ <u>16.67</u>
<u>Grand raffle ticket printing</u>	_____	\$ <u>220.25</u>



- First Quarter Report (June Mtg)
- Second Quarter Report (Oct Mtg)
- Third Quarter Report (Jan Mtg)
- Year-End Report (Mar Mtg)

TO: WMCA President and Executive Committee

FROM: Carol Etgen, MMC

COMMITTEE: Legislative Committee

DATE: February 26, 2013

SUMMARY OF ACTIVITIES: The Legislative Committee began their work in April of last year with a call to action regarding PSHB 2823 - a bill calling for the reduction of liquor revenue distributions. Members were encouraged to contact their legislators regarding this and many other bills as the 2013 Legislature kicked into gear, including:

- * A proposal to amend RCW 40.14.030(2) by the Sunshine Committee;
- * HB 1037 - regarding requiring payment for requests for commercial purposes;
- * Two proposals to allow government entities to file for an injunction for public records act abuses including HB 1128; and
- * Reviewed several other pieces of proposed legislation of interest to municipalities.

The committee also reviewed AWC's Legislative Priorities including: 1) Pursue pro-active public records proposals that address some of the problems that come with burgeoning and abusive public records requests; 2) Pursue options for creating sustainable personnel related costs; 3) Limit rising State audit costs; and 4) Limiting Liability for Local Government.

The Committee Chair provided a 2012 Legislative Year-end Report for IIMC, and the Committee reviewed several articles and editorials regarding proposed legislation.

ACTION REQUESTED: YES NO

RECOMMENDATION:

ALTERNATIVES:

FISCAL IMPACT:

Revenues:

Budgeted Amount

Revenues Generated

\$ _____
\$ _____

\$ _____
\$ _____

Expenditures:

Budgeted Amount

Amount encumbered &
expended

\$ _____
\$ _____
\$ _____

\$ _____
\$ _____
\$ _____



- First Quarter Report (June Meeting)
- Second Quarter Report (October Meeting)
- Third Quarter Report (January Meeting)
- Year End Report (March Meeting)

TO: WMCA President and Executive Committee

FROM: Ronald F. Moore

DATE: 03/08/2013

SUMMARY OF ACTIVITIES:

The YEAR is complete!!! This has been a busy and productive year for the Membership Committee. The following tasks were completed.

- Complete overhaul and adoption of the Partnership Program (formerly the Mentorship Program) and its bylaws
- Submitted a fully revised draft of the WMCA Handbook to the Executive Committee for March Business Meeting adoption
- Revised the Election Committee bylaws (Clarified elections procedures by breaking all elections down into two categories, Special and General)
- Recruited and communicated with FORTY-EIGHT (48) NEW WMCA members
- Successfully handled two elections this year

I would specifically like to thank the following professionals for their service and leadership on the Membership Committee:

Sandy Paul - Jill A. Boltz – Darla Reese – Elizabeth Adkisson – Leana Johnson – Debbie Burke – Christy O’Flaherty – Keri MacDonald – Debbie Kundra – Michelle Brooks – Cindy Marbut – Randy Hinchcliffe – Heidi Riojas – Gina Anderson – Diana Quinn – Dee Roberts – Gwen Robson – Bobbie Usselman – Melissa Collins – Stephanie Haug – Michelle Murphy – Sharon Scott – Nicole Stephens – Tes Ongoco

NEW MEMBERS!!

Elizabeth Alba, Deputy Finance Director/City Clerk, City of Toppenish
Laura Divis, Clerk 1, City of Okanogan
Deborah Estrada, Deputy City Clerk, City of Mercer Island
Sara Gollersrud, Hearing Examiner Office, City of Bellevue
Lynette Bisconer, AP/PR Technician, City of Union Gap
Tom Richardson, City Clerk/Planner, City of Millwood
Erika Stancil, Clerk Treasurer, City of Tenino
Jennifer Martin, Records Management Specialist, City of Lake Forest Park
Sylvia Sanchez, Administrative Services Director/City Clerk, City of Union Gap
Tina Smith, Administrative Services Assistant, Washington Cities Insurance Authority

A week before our annual conference, the Washington Municipal Clerks Association is THREE HUNDRED AND FORTY-SIX (346) members strong!!

2014 Membership Committee Chair

I am also pleased to announce that the Membership Committee will be led next year by Elizabeth Adkisson from the City of Redmond. As the leader of the Elections Committee this year, Elizabeth did a truly remarkable job with revising the Elections Procedures within the WMCA bylaws. Additionally, she not only managed her own Deputy City Clerk responsibilities with the City of Redmond, she handled both the WMCA special and general elections, and in the meantime, got married and had a baby!! KUDOS to Elizabeth!!! I'm absolutely sure she will do a fantastic job in her new role as Membership Chair.

ACTION REQUESTED: YES NO

RECOMMENDATION:

Approve the Washington Municipal Clerks Association (WMCA) Handbook.

ALTERNATIVES:

FISCAL IMPACT: NONE

From: [Moore, Ronald](#)
To: [Scott Passey](#)
Subject: RE: WMCA Handbook
Date: Wednesday, March 13, 2013 8:56:28 AM

Oh and one more thing. The committee was VERY conflicted about even having Chapter 7 in the Handbook. There are SO many organizations that have moved from the City Clerk being HR that we weren't sure if it should be included at all. However, I sent it to you. It is unedited.

One more thing, we were also undecided on removing the part in the Appendix (Chapter 9.06-9.20). It has information concerning organizations and education requirements. I'm guessing it wouldn't take much to update though.

Ronald

From: Scott Passey [mailto:spassey@shorelinewa.gov]
Sent: Wednesday, March 13, 2013 8:21 AM
To: Moore, Ronald
Subject: WMCA Handbook

Hey Ronald,

I wonder if you could forward me the draft Handbook.

Scott Passey, MMC

City Clerk, City of Shoreline

17500 Midvale Ave N.

Shoreline, WA 98133

T: (206) 801-2231 F: (206) 546-1524

WWW.shorelinewa.gov

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confidentiality or privilege asserted by an external party.

Municipal Clerks Handbook Preface

The original publication of this handbook was the culmination of two years of research by the Handbook Committee, ~~which was~~ charged with producing a reference guide to the available resources which enable Municipal Clerks to learn about procedures common to their profession. The [handbook was updated in 1995](#) ~~update revised and added to this original work, and now provided to our organization again in 2013. While the role of the Clerk is the steady hand of the organization, the functions and duties are ever changing with the needs of our organizations. The Handbook Committees of years past and today have been committed to providing the best possible resources for our profession. Of greatest significance, this revised handbook provides an inclusive relationship between Clerks of cities, counties, ports, and transit authorities. The Handbook Committee is honored to present the newly revised 2013 Handbook and recognize the collaboration and hard work of all members who have participated in this effort.~~ It is the hope of the WMCA and the members of the Handbook Committee, [this handbook will serve a resource and guide to that by utilizing the information in this handbook, City Clerks will become more knowledgeable about their responsibilities and how to more effectively and efficiently carry out their duties.](#) [ADD INFORMATION REGARDING THE 2012/13 HANDBOOK UPDATE HERE!!!](#)

As Marie O'Connell, CMC/AAE wrote in 1991, "Many changes are facing us as City Clerks, prompting a greater need than ever to continue our education, broaden our perspectives and increase our skills. By becoming a more knowledgeable City Clerk, you will demonstrate to your municipality your concern for continuing growth, which will also positively reflect on your public image."

Special thanks to members of the Handbook Committee:

1989/90 Handbook Committee

Lillian Hines, Chair (White Salmon)
Pam Olsen (Brewster)
Lu Humphrey (Toppenish)
Roland Signett (Ferndale)
Maxine Motor (Renton, retired)
Terry Briscoe (Bothell)

1997/98 Handbook Committee

Shelly Murphy, Chair (Bellevue)
Chris Boughman (Mukilteo)
Jay Haggard (Longview)
Jan Hubbard (Burien)
Linda Ruehle (Issaquah)

1990/91 Handbook Committee

Terry Briscoe, Chair (Bothell)
Peggy Rheinbold (Zillah)
Esther Schmidt (Sea-Tac)
Jane Cantu (Tukwila)
Brenda Jacober (Kent)
Susan Wilson (Steilacoom)

2012/13 Handbook Committee

Ronald F. Moore, Chair (Shoreline)
Darla Reese, Senior Editor (Granite Falls)
Jill A. Boltz, Senior Editor (Poulsbo)
Christy O'Flaherty (Tukwila)
Debbie Burke (Normandy Park)
Debbie Kudrna (Othello)
~~Michelle Brooks (Rock Island)~~
Keri MacDonald (Cheney)

1994/95 Handbook Committee

Sharon Mattioli, Chair (Bellevue)
Brenda Fritzvold (Renton)
Rhonda March (Edmonds)
Kathy Morton (Snohomish County)
Doris Schaible (Redmond)
Norma Wilds (Brier)

Municipal Clerks' Handbook

Acknowledgements

In 1991, the Washington Municipal Clerks' Association Handbook Committee acknowledged the following organizations for their generous contributions to the preparation of the WMCA Municipal Clerks' Handbook:

- The WMCA Board for their support and encouragement;
- The Association of Washington Cities for donating the costs of printing;
- Municipal Research & Services Center for their legal review and for permission to duplicate their publication on Bidding;
- The International Institute of Municipal Clerks for permission to duplicate "The Language of Local Government" as Chapters 9.04, 9.08, 9.12 in our Appendix; and
- The City Clerks' Association of California for providing us with a sample City Clerks' Handbook to use as our guideline.

The 1994/95 Handbook Committee added its thanks to:

- Pat Mason of the Municipal Research & Services Center for his legal review and updating of the 1995 Handbook.
- Glenn Sugiyama of the City of Redmond for reviewing Title V, "Claims, Summons, Insurance & Risk Management"

The 1997/98 Handbook Committee would like to acknowledge and give thanks again to:

- The Municipal Research & Services Center for their outstanding legal review and updating of the 1998 Handbook.
- The Handbook Committee

The 2012/13 Handbook Committee would like to acknowledge and give thanks to:

- Pat Mason of the Municipal Research & Services Center for his legal review and updating of the 2012/13 Handbook.
- Sandy Paul-Lyle, President of WMCA for her courageous leadership and honesty.

**Municipal Clerks' Handbook
March 1998**

Table of Contents

A. [Acknowledgements](#)

B. [Preface](#)

I. [The City Clerk](#)

- 1.04 The City Clerk
- 1.08 The City Clerk as Manager
- 1.10 The City Clerk as Leader
- 1.12 Policies and Procedures
- 1.16 Follow-Up Systems

II. [Meetings, Agendas & Minutes](#)

- 2.04 Meetings
- 2.08 Agendas
- 2.12 Minutes
- 2.16 Open Public Meetings Act

III. [Records Management](#)

- 3.04 Public Disclosure Act
- 3.08 Records Management
- 3.10 Municipal History
- 3.18 Emergency Preparedness

IV. [Legal Requirements](#)

- 4.04 Forms of Municipal Government
- 4.08 Legislative Procedures
- 4.10 Elections
- 4.12 Voters Pamphlet
- 4.14 Initiatives/Referendums
- 4.16 Annexations
- 4.18 Public Disclosure
- 4.20 Bidding Requirements
- 4.24 Contracts--Agreements

V. [Claims, Summons, Insurance & Risk Management](#)

- 5.04 General Provisions

VI. [Public and Media Relations](#)

- 6.04 General Provisions
- 6.08 Newspapers
- 6.12 Electronic Media
- 6.14 Volunteers
- 6.18 Lobbying through Association of Washington Cities

VII. [Personnel](#)

- 7.06 Fair Labor Standards Act
- 7.08 Americans with Disabilities Act (ADA)
- 7.10 Sexual Harassment

VIII. Index

IX. [Appendix/The Language of Local Government](#)

- 9.04 Abbreviations
- 9.08 Gender Neutral Language
- 9.12 Definition of Terms
- 9.16 Reference Organizations
- 9.18 Education of Municipal Clerks
- 9.20 Bibliography

Chapter 1.04 The City Clerk

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Sections:

1.04.010 The oldest government profession.

1.04.010 THE OLDEST GOVERNMENT PROFESSION. The municipal clerk, along with the tax collector, is the oldest public servant. The office can be traced to biblical times and even before.

St. Paul and his followers during his missionary work in Persia (now Western Turkey) owed their safety to the action of a town clerk. As related in Acts XIX, 23-25, the artisans of Ephesus who made the idols of the time, feared the effect of Paul's missionary work on their trade. They incited a mob to seize two of Paul's followers. The town clerk, however, spoke out against this action and insisted that charges laid against these men had to be settled in the proper manner and before the proper authorities. There was no justification for riotous conduct. With that, he dispersed the crowd.

Ancient Greece had a city secretary who read official documents publicly. At the opening of a meeting, one of his duties was to read a curse upon anyone who should seek to deceive the people.

The early keepers of the archives were often called remembrancers, and before writing came into use, their memory was the public record.

The title as we know it is derived from the Middle Ages. A "Clerk" was any member of a religious order, a "cleric" or "clergyman." Since, for all practical purposes, the scholarship of the Middle Ages was limited to the clergy, the name "clerk" came to be synonymous with "scholar."

The Office of Clerk can be traced back to the year 1272 A.D. in the History of the Corporation of Old London. In the 1500s in England there was not only the "Towne Clarcke" but also the "Clerc Comptroller of the King's Honorable Household." In 1603, there was a "Clarke General of the Armie." King Henry the Eighth had a "Clarke of the Spicery" and King Charles had his "Clerk of the Robes."

When the early colonists came to America, they set up forms of local government to which they had been accustomed, and the office of clerk was one of the first established. The colony at Plymouth appointed a person to act as a recorder.

Over the years, municipal clerks have become the hub of government, the direct link between the inhabitants of their towns and their government. The clerk is the historian of the community, for the entire recorded history of the town and its people is in the clerk's care.

The eminent political scientist, Professor William Bennett Munro, writing in one of the first textbooks on municipal administration, stated:

"No other office in municipal service has so many contacts. It serves the mayor, the city council, the city manager (when there is one), and all administrative departments without exception. All of them call upon it, almost daily, for some service or information. Its work is not spectacular, but it demands versatility, alertness, accuracy, and no end of patience. The public does not realize how many loose ends of city administration this office pulls together."

Those words, written 40 years ago, are even more appropriate today.

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Chapter 1.08 The ~~City~~ Clerk as Manager

Sections:

- 1.08.010 Fundamental principles.
- 1.08.020 Functional divisions.
- 1.08.030 Planning.
- 1.08.040 Organizing.
- 1.08.050 Staffing.
- 1.08.060 ~~Directing~~Leading.
- 1.08.070 ~~Managing~~Controlling.
- 1.08.080 ~~Office notebook~~Reference Binder--_contentsContents.

1.08.010 FUNDAMENTAL PRINCIPLES. The ~~e~~Office of the ~~city~~ Clerk has many and varied functions and responsibilities among Washington cities ~~and in order to get the most accomplished each office must be efficient and well managed, but all of our offices share at least one thing in common — they should be well managed in order to get the most accomplished we can, as efficiently as we can.~~ Regardless of whether the Clerk works alone or directs a large staff, and regardless of the scope of responsibilities, ~~the degree of automation or mechanization of equipment,~~ there are certain fundamental principles that are equally applicable. It is the intent of this chapter to outline basic

procedures that may be of assistance ~~not only to new clerks but, hopefully, to experienced~~ clerks searching for ways to upgrade the operations of their offices.

1.08.020 FUNCTIONAL DIVISIONS. Management may be conceptually divided into five functions: planning, organizing, staffing, ~~directing-leading~~ and ~~controllingmanaging~~. Often, more than one of these concepts is operable simultaneously in our work, but it is of assistance to separate them in thinking about how we do our jobs and where we could improve.

1.08.030 PLANNING. The old adage, "Plan your work and work your plan," was never more ~~apropos-relevant~~ than in today's rapidly changing world. ~~Clerks need to have a~~ Without a basic plan of operation to ensure that deadlines are met and work flows smoothly into and out of the office. With this basic plan in place, a Clerk ~~can is ill-~~ equipped to deal with ~~an~~ emergency situations or a demands for special service or assistance. It is vitally necessary that some time be reserved solely for planning—~~reviewing present procedures, studying new methods and planning for the future.~~

Planning is determining in advance what should or shouldn't be done. Planning ~~in the municipal field~~ takes on many forms, including deciding how to obtain additional revenue, how to meet the demands of expanding service areas, how to conduct public information programs and how to meet existing service requirements. The manager must decide what is going to be done, when the tasks will be undertaken and when they can be expected to be completed.

Every Mayor, Manager/Administrator, Council or Commission sets goals every year, which are based on the desires of their constituents. These goals govern what tasks they wish to accomplish for the year. The goals are inherited by the staff, who create and implement programs based on those goals. There has been much discussion recently about establishing goals and "management by objectives." "Goals" may be thought of as visions for a better product, program or process for doing things. Your goals as a manager should be consistent with the goals of your cityjurisdiction, whether stated by the council/commission, your mayor, or your manager/administrator. You should ~~however~~ also have a personal conviction (a "vision") in the goals for your office or department. If goals assigned to your office or department seem unrealistic or inappropriate to you, remember that effective managers strive to influence their supervisors to work with them to set more realistic or appropriate goals.

Once your goals have been set, you can break them down into measurable objectives, for which you can plan. Planning to meet your objectives generally involves budgeting funds, planning the time frame and staffing for the project, purchasing needed supplies and making contacts to obtain the necessary information.

1.08.040 ORGANIZING. Organizing is the answer to "How will the work be divided and accomplished?" If you supervise people, delegation is a very important part of the organizing function. Delegation involves assigning duties, granting the authority to accomplish the tasks and allowing subordinates to assume responsibility for the tasks. Delegation does not mean that the supervisor has given away the ultimate responsibility, but rather that the work for which the ~~clerk~~ Clerk is responsible is being accomplished through other people.

Even if you do not supervise others in your office, organization is still essential. In order to organize your work, you need a complete list of work details, including the time required for each task, as the starting point. The inventory must include all functions, regardless of the degree of importance, and should be prepared by the person actually performing the work.

Once you are fully aware of the details of the work that comprise your objectives, you can distribute the work over time and personnel. Distribution includes scheduling ~~the of~~ work by priorities, as well as ~~the~~ assignment of ~~personnel to~~ specific duties ~~to your personnel~~. Certain functions, such as publications and mailings of legal notices, have inherent deadlines and demand higher priorities than indexing, filing, generating miscellaneous correspondence, etc., which, although important, may be done during less critical time periods. A degree of flexibility must be maintained in any work schedule to allow for unexpected interruptions or unusual requests. If staff allocation permits, it is desirable to assign definite responsibilities for certain functions to those employees who appear to have aptitudes and interests in such areas. This promotes a sense of pride within the employee in specific phases of the operations in order to promote a sense of identity through specialization and induce pride of position. Care should be taken, however, to train another employee to substitute in the event of illness, vacation, or resignation.

Functionally, organized work areas are also important in maintaining an efficient flow of work. For maximum productivity, ~~work~~ing-stations and facilities should be laid out to permit a smooth flow of work ~~from person to person~~ with easy access to machines, equipment, files and work areas. If space permits, there should be a service counter. Arrangement of the service counter for public use is particularly important. The citizen coming to the counter must feel free to state requests or problems without distractions of employees moving around him or, even worse, being required to move aside to permit someone to enter or leave the area. Employees serving the counter should be located in reasonable proximity to avoid delay in service.

The operations of the ~~city clerk's~~ department should be reviewed periodically, ~~using the work inventory records described above, and, if possible, steps should be taken to~~

~~simplify work.~~ Even ~~those~~ functions dictated by legal requirements should be studied for opportunities to increase ~~the efficiency of the mechanics of the operation.~~ ~~Review of operations may also disclose some practices that seem to have no real reason for existence, other than custom.~~ In considering elimination of any traditional function, ~~however,~~ the Clerk must carefully weigh anticipated time-saving advantages against possible negative response from the staff or public. In addition, changes are sometimes difficult for other staff members to deal with. If you are going to implement a change that affects other people in your department or organization, it is a good idea to involve them early in the planning ~~process for the change and to listen sincerely to their suggestions.~~

You may also be able to reduce bottlenecks and streamline your workload with the use of personalized form letters, for such matters as general correspondence interim acknowledgement of communications to your council, ~~and advice when a matter will be heard;~~ notification of bid awards, ~~notice to contractors to commence work;~~ advice of council action; and transmittal of requested information or copies of documents. Also, don't overlook use of the telephone in lieu of a written response; it takes less time than preparing a letter and offers the further advantage of a personal contact with the citizen or business. It may also be prudent to generate a "frequently asked questions" document for your organization or office. ~~Preparation of "handout" material covering the most frequently asked questions also is helpful.~~

1.08.050 STAFFING. Staffing is the selecting of new employees and determining whether there are enough qualified employees to fill the available positions. This involves preparing appropriate job specifications, recruitment, orientation, training, evaluation procedures, and considerations for promotion and replacement.

1.08.060 DIRECTING LEADING. Directing-Leading includes guiding, teaching, motivating and supervising subordinates. ~~Staffing involves the training of employees for particular jobs,~~ directead is to encourage ~~those same~~ workers to perform ~~those~~ tasks better and more efficiently— and to continue to do so.

Employees may be motivated by a number of different factors, including achievement, recognition, a diverse interesting workload, responsibility, growth, and rewards. You may think that financial rewards and working conditions are the most important motivators of employees, but actually, once people's "human needs" (financial and security) are adequately met, more complex needs tend to dominate as motivators.

Your employees most likely will be motivated to perform their jobs efficiently when you utilize approaches to supervision which enhance the employees' job satisfaction. These approaches include:

1. **Delegation with authority and responsibility:** The employee is given general directions to accomplish the task but is permitted to use her judgment in implementing the task.
2. **Job enlargement, growth and Job enrichment:** The employee is given the opportunity to grow in her job by assuming more responsibilities for the types of work that interest her. Cross-training is another way to enrich a person's job and as they learn to perform more duties, they become a valuable "back-up" to another employee.
3. **Participation:** Employees' advice and suggestions are sought and used to improve the work flow, create a new assignment, or develop new procedures. This helps make employees aware of the importance of their role in the department.

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1.08.070 CONTROLLINGMANAGING. ~~Controlling-Managing~~ means making certain that objectives are achieved as planned. This brings us back to the original function of planning, and completes the ~~circle~~process. This function establishes feedback to the manager on the plans implemented during the previous work cycle. It is recommended that you establish at least a yearly self-evaluation of the extent to ~~evaluate~~ which ~~goals~~ your department has accomplished ~~the goals set~~. Adjustments to the next work period's schedule may need to be made based on the feedback you receive from ~~theyour~~ evaluation of ~~the implementation of your the~~ goals.

1.08.080 REFERENCE MATERIALSOFFICE NOTE BOOK – CONTENTS. Many questions of a general nature come ~~through~~ the ~~city Clerk's office~~ on a daily basis and can usually be answered by office staff. Questions requiring more than routine information may be forwarded to the specific department.

For easy reference in answering routine questions, it is helpful to keep on hand a ~~variety of reference materials. The following is a suggested list:~~notebook which contains information about your city and state. For example:

1. Names of addresses of council members, mayor, ~~city~~ clerk and other department heads;
2. Schedule of council meetings, dates and time;
3. List of council sub-committees and members, dates and times of meetings;
4. Names and in-house phone numbers of ~~City~~ officials;
5. Phone numbers for emergency services;
6. Names and addresses of board and commission members;
7. Phone numbers and addresses of local school districts;
8. List of local libraries, including bBBusiness hours, addresses and phone numbers ~~for local libraries;~~

~~9.~~ ~~List of local libraries (and phone numbers);~~

~~10.9.~~ Local voter information;

~~11.10.~~ State legislature phone listing;

~~12.11.~~ Directory of local public services.

~~12.~~ List of clubs and community organizations

~~13.~~ Email addresses

~~13.14.~~ Web addresses of commonly used sites

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Chapter 1.10 The ~~City~~ Clerk as Leader

Sections:

1.10.010 Definition.

1.10.020 Leaders vs. ~~manager~~Manager.

1.10.030 Empowerment.

1.10.040 Motivation.

1.10.050 Mentoring.

1.10.060 Self-care.

1.10.010 DEFINITION. In addition to being a good manager, as described in Chapter 1.08, ~~city~~ Clerks must be leaders, again regardless of the size of their staff or ~~jurisdiction~~city. Leaders are people who influence others to follow them. The goal of the leader in modern organizations is to create a situation in which committed, self-confident people work in exacting jobs toward a worthwhile purpose. In pursuing that goal, leaders must:

- define and focus the attention of the group on a purpose; ~~and~~
- translate a clear, detailed vision of what the organization is to become in terms of results; ~~and~~
- organize the work around the results that will make the vision a reality and give people or teams clear responsibility for accomplishing those results; ~~and~~
- define a clear, unwavering set of values, a sense of right and wrong, which supports the vision and is enforced through a strict system of accountability; and
- tap the best motives of peers and employees in such a way as to encourage growth and empower members of the organization and help them feel good about themselves.

1.10.020 LEADER VS. MANAGER. Both leading and managing are crucial to the success of an organization. The difference is that leaders focus on the future rather than the present.

- Managers make sure ~~that~~ things work well, ~~—~~ leaders create something that works better.
- Managers solve today's problems, ~~—~~ leaders create a better future.
- Managers focus on the process, ~~—~~ leaders focus on the product.
- Managers make sure the details are taken care of, ~~—~~ leaders set broad purposes and directions.
- Managers make sure people are engaged and approach their work with energy, dedication, and focus ~~that people put in an honest day's work for an honest day's pay and that they are rewarded for doing so,~~ ~~—~~ leaders inspire people to do more than expected.
- Managers focus on efficiency, ~~—~~ leaders focus on effectiveness.

1.10.030 EMPOWERMENT. Leaders recognize the five dimensions of empowerment:

1. Helping others to feel legitimately important and ~~that~~ they are truly making a difference by their efforts. The leader constantly reminds all involved of the overall significance the organization is making in the lives of others, by keeping the mission at the forefront of thinking. In so doing, the leader keeps the focus on PEOPLE not THINGS.
2. Enabling people to learn and develop on the job. Leaders view the work-place as a setting for continual learning and encourage others to increase their sense of mastery. Leaders reward creativity, innovation, problem-solving and new ideas. They challenge staff to stretch to the limits of their competence and beyond.
3. Joining everyone in a common purpose and keeping this purpose before everyone's eyes constantly visible to the department as a whole. Leaders create a climate of trust and risk-taking, encouraging anyone to question or suggest better ways of doing things. Leaders are nice to people in a ~~sincere and empathetic way.~~ They empower people to give input and to creatively problem solve create community building activities.
4. Modeling the values of a sense of adventure and play. Leaders create a climate that encourages fun, ~~warmth, and a sense of pleasure.~~
5. Providing a sense of control. Leaders define work so that people have something to be responsible for in charge of. Rather than merely assigning tasks, they give people meaningful responsibility for results. In providing a sense of control, ~~L~~ leaders make work challenging.

1.10.040 MOTIVATING. This is a primary leadership skill. Leaders ~~providestudy~~ appropriate stimulation, reward, supervision, and support. ~~Victor Croom's "Theory of Expectancy" offers one such key. It states that people will feel let down, betrayed, or cheated if reality does not live up to their expectations. Ensuring that work expectations are realities from the start helps build successful outcomes. It also translates to an adage for leaders: "Never promise what you can't deliver!"~~

~~Japanese psychologist Dr. Inamura offers another approach. His "Theory of Significance" is based on people's need to feel that they or the work they do are significant. Leaders must find ways to convey these feelings.~~

~~Frederick Herzberg's "Motivation-Hygiene Theory" differentiates between factors which motivate by their presence and those that demotivate by their absence. The former include physical surroundings, rewards, clear policies and guidelines, administration, security and status. Although the absence of any of these can demotivate, their presence does not produce positive motivation. Positive motivators, those things which "turn people on" include a sense of achieving something of value, recognition for accomplishments, challenging work, growth and development, and increased responsibility. Good leaders provide these.~~

1.10.050 MENTORING. The most important thing a leader can do is to identify, nurture, coach and empower future leaders. This calls for the intricate skill of "mentoring", i.e., helping others to grow to their potential and then encouraging them to fly to their own heights. People with the potential for leadership give clues that aid in recognizing them. ~~Future leaders will probably:~~

- ~~• challenge authority or the ways things have always been done.~~
- ~~• come up with a steady stream of new ideas.~~
- ~~• keep the mission foremost in their minds and remind others of it.~~
- ~~• question ... EVERYTHING -- but not in a negative way.~~
- ~~• take risks and respond to challenges. They may display impatience with those who will not dare, risk, or change.~~
- ~~• drive some folks crazy!~~

Mentor/"mentee" relationships are usually initiated by the leader, whose role is one of coaching, and offering guidance where appropriate, sup-~~porting~~ ~~and occasionally~~

Comment [r1]: Look for a BETTER and NEWER source for Motivation. Former WMCA speaker maybe????

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~~nudging~~. Its true test comes when the mentee changes into a collegial role that may then surpass the reputation, accomplishment or notoriety of the mentor. How the leader responds to this shift in positions is critical, both to others being mentored, and to the previous mentee's own role model for future mentoring. Mentors are a critical thread in the fabric of leadership. When done well, and kept in perspective, the development of future leaders can be listed among the leader's greatest accomplishments.

1.10.060 SELF-CARE. A good leader understands that effective leadership requires staying in the best possible shape, physically, mentally, spiritually, and emotionally. Attaining this balance gives the leader the strength, insight, stability and courage to go about leading others. In understanding the importance of wellness, leaders:

- Learn to communicate clearly, ~~so as not to "gunny sack" grievances that later destroy wellness.~~
- Work on good general health.
- Relax and know how to play.
- Keep things simple and in balance.
- Initiate positive self-talk and avoid negative messages to themselves.
- Have great integrity ~~and~~, act ethically ~~and thus feel good about themselves.~~
- Use humor to relieve tension and put things in perspective.
- ~~Are in touch with their spiritual side and nourish it regularly.~~
- Enjoy relationships.
- Celebrate successes!

~~from Secrets of Leadership, Rick Lynch and Sue Vineyard, Heritage Arts Publishing, 1807 Prairie Ave. Downers Grove, IL 60515~~

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Chapter 1.12 Policies and Procedures

Sections:

1.12.010 Definitions.

1.12.020 Suggested policies and procedures.

1.12.010 DEFINITIONS.

"Policy" means:

1. A plan or course of action, as of a government, political party, or business, designed to influence and determine decisions and actions.
2. A course of action or guiding principle, considered to be expedient, prudent or advantageous.

"Procedure" means:

1. A way of performing or ~~effecting~~affecting something.
2. A course of action.
3. A set of established forms or methods for carrying on the affairs of a business, legislative body or court of law.

1.12.020 SUGGESTED POLICIES AND PROCEDURES. Following are listed activities for which policies and procedures should be established:

*Accounting (set out in the BARS Manual); however, personalized (entity specific) would be helpful for non-accountant people.)

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*Accounts Receivable

*Adjustments

*Boards and Commissions (generally set out by ordinance or resolution);

*Bidding

*Budget Process

*Change Funds

*Charges for Services

*Code Enforcement

*Collections

*Computer ~~Usage-Operations~~

*Debt Management (payment of P&I etc.)

*Deposits

*~~Email~~

*Expenditure Reimbursements

*Fixed Assets

*~~Hosting~~

*Inventory

*Investments

*Licenses and Permits

*Loans (Interfund)

*Local Improvement Districts

*Mail

*Payables

*Payroll

- *Personnel
- *Petty Cash and Revolving Funds
- ~~*Postage meter records~~
- *Public Disclosure
- *Purchasing
- *Receipts
- *Records Management
- *Refunds
- *Reporting
- *Risk Management
- *Signatures –(Warrants, Checks, Documents, Facsimile, Stamp, etc.)
- *Social Media
- *Special Event Protocol
- *Telephone (Personal Use of)
- *Taxes
- *Traffic Violations
- *Transfers
- *Utility Billing
- *Vehicles - (Personal Use of City Vehicles):
- *Website

Sample policies and procedures are available from the Municipal Research Services Center or the IIMC.

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Chapter 1.16 Follow-Up Systems

Sections:

- 1.16.010 Systems and procedures.
- 1.16.020 City council pending items.
- ~~1.16.030 Tickler system.~~
- 1.16.~~040-030~~ Community calendar.
- 1.16.~~050-040~~ Internal calendar.

1.16.010 SYSTEMS AND PROCEDURES. An important function of the ~~city clerks~~ Clerk office is to maintain a system or procedure for notifying persons of due dates of reports and expiration dates on various matters. It is best not to try to rely on your memory, but to adopt a follow-up or calendar/tickler procedure which will work for you. This section gives suggestions for systems which can be adapted to your personal needs.

1.16.020 CITY COUNCIL PENDING ITEMS. A separate system should be maintained for all matters requiring the attention of the city council. One suggestion would be to obtain an accordion-type file with at least 12 sections, labeled for the upcoming months or meeting dates, and large enough to allow quite a bit of material to be placed in each section.

As possible agenda items come to the ~~city clerk-Clerk~~ they can be placed in the appropriate months section with a notation as to which meeting in that month the item is to be agendaized. As public hearings are advertised, the affidavit of publishing, case file, or backup material can be placed in the appropriate section. The ~~clerk-Clerk~~ can also write reminder notes for placement in the sections, of agenda items to be expected during that month. For instance, if your city council does something at the same time each year, i.e., levying assessments for districts, or adopting the tax levy, you can keep a reminder in that month's section which will alert you each year to place the matter on the agenda. This also allows for a departmental reminder early on so there is less last-minute work to be done.

If this type of system is utilized, when it comes time to prepare an agenda, the ~~city Clerk~~ would merely pull the items from the appropriate month and sort out the items for the current agenda.

~~1.16.030 TICKLER SYSTEM. An effective tickler system is a good method to keep track of follow-up items, such as agreements with termination dates, insurance certificates, leases, contracts, com mission/committee term expirations, special events, documents sent for recordation, etc.~~

~~This system can be in a number of forms, such as a file containing month and day guides, where material is placed within the file at the specified date.~~

~~It may be appropriate to have the card in duplicate so that when reminder time comes you need only pull off the duplicate and forward it to the appropriate person or department. It should be noted that some items, such as leases, insurance certificates, and some agreements may need as much as a three-month lead time to negotiate new ones.~~

~~Word Processing and data base management of the "tickler system" has been found to be very helpful. With the "Search" mode of a computerized system, items can be found by due date, date adopted, date requested, etc.~~

~~The systems mentioned in this section are merely suggestions and could be modified to meet individual needs. Any system should be kept simple and workable, and everyone in~~

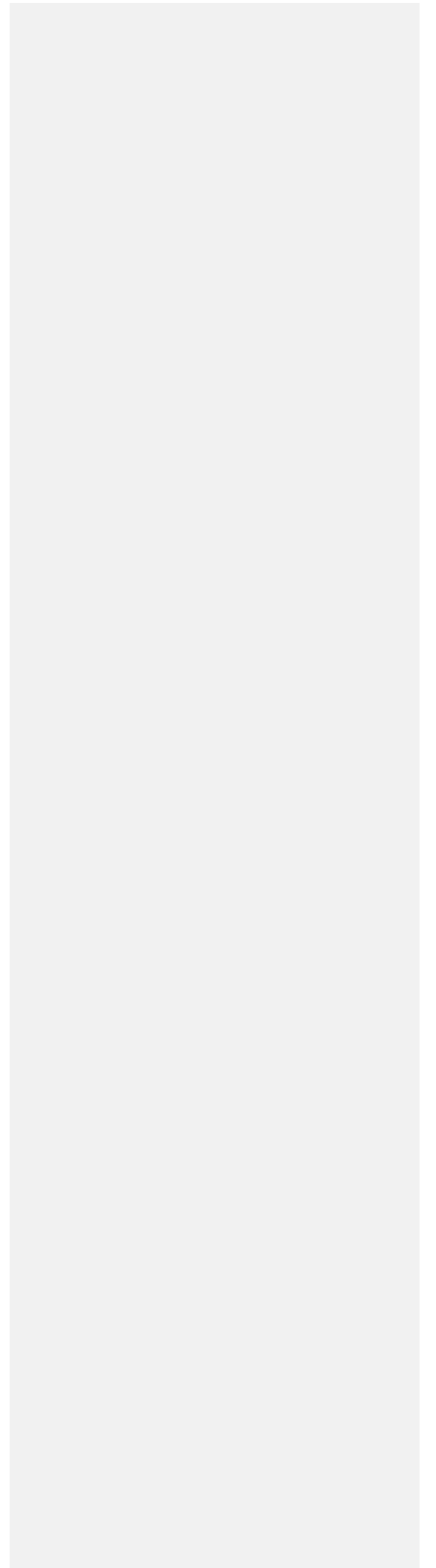
~~the city clerk's office should be "tuned into" the system so it will work in the absence of the city clerk.~~

1.16.040-030 COMMUNITY CALENDAR. In some cities the ~~city~~Clerk maintains a community calendar as a public service. This type of calendar could have all meetings and events of community-wide interest, including ~~city~~council meetings, board of education meetings, chamber of commerce meetings, and any event of interest to the general public. The community calendar should be ~~disseminated publicly given to the Press for publication in the newspapers, as well as posted in various places in the city.~~ It could also be included with other ~~city~~ mailings.

~~In other cities, this type of calendar is maintained and distributed by the chamber of commerce or other community organizations.~~

1.16.050-040 INTERNAL CALENDAR. In many ~~cities~~jurisdictions, the ~~city~~Clerk maintains an internal type calendar mainly for ~~city~~councilmembers and ~~city~~departments. This type of calendar should list all ~~city~~council and commission/committee meetings, as well as outside meetings ~~city~~councilmembers or department heads might be interested in attending. ~~The~~is type of calendar should also include other ~~citywide~~ events of possible interest to councilmembers and ~~the public~~others. ~~This calendar may or may not be disseminated to the press, depending on the policy of individual cities.~~

|



CHAPTER 2

2.04 Meeting Operations

2.06 Open Public Meetings Act

2.08 Agendas

2.12 Minutes

Chapter 2.04 Meeting Operations

Sections:

~~2.04.010 Parliamentary Procedure.~~

2.04.020 Clerk of ~~the~~ council.

2.04.030 ~~Meeting p~~Preparation of council chambers.

~~2.04.040 Assistance at meetings.~~

~~2.04.040 Parliamentary Procedure.~~

2.04.050 Conduct of meeting.

2.04.060 ~~City clerk~~Clerk's role.

~~2.04.070 Handling of correspondence.~~

~~2.04.080 Operation of recording equipment.~~

2.04.090 Methods of recording vote.

~~2.04.100~~

~~2.04.110 Recesses.~~

~~2.04.120 Public Participation.~~

~~2.04.100 Council meetings generally.~~2.04.130 Disturbances at ~~council~~ meetings.

2.04.140 ~~Adjournment and c~~Closing ~~city council~~council chambers.

2.04.150 Council meeting follow-up.

~~2.04.010 PARLIAMENTARY PROCEDURE. In 1876 General Henry M. Robert developed a manual of parliamentary procedure which he entitled Robert's Rules of Order. This manual followed the rules of the United States House of Representatives as a base but was designed for use of ordinary societies. The manual was published as Robert's Rules of Order in 1876 with the full title of "Pocket Manual of Rules of Order for Deliberative Assemblies." Between 1912 and 1915, the General revised his Rules of Order to incorporate all of the comments and letters received since the first publication.~~

WMCA Chapter 2 – Meeting, Agenda, Minutes

Updated 2012

Page 1 of 37

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These rules are generally followed now by a wide spectrum of organizations such as government and private corporation and are also used in much less formal meetings such as clubs and committees and should be formally adopted. Henry M. Robert stated in the first manual that "While it is important to every person in a free country to know something of parliamentary law, this knowledge should be used only to help, not to hinder business. One who is constantly raising points of order and insisting upon a strict observance of every rule in a peaceable assembly in which most of the members are...(unfamiliar with) these rules and customs, makes himself a nuisance, hinders business and prejudices people against parliamentary law. Such a person ... either (does not understand) its real purpose or else willfully misuses his knowledge."

The sections in this chapter will discuss the agenda. They are for the formalized meeting process. It is intended to serve as a helpful guide to ensure that the intent of the law and the people remains in effect.

2.04.0120 CLERK OF THE COUNCIL.

The ~~Washington city clerk~~Clerk is customarily the "clerk of the council" and as such is expected to attend all ~~regular, adjourned regular, and special city council~~council meetings. In the absence of the ~~city clerk~~Clerk, the ~~d~~Deputy ~~city clerk~~Clerk shall act. ~~If there is no Deputy, the mayor presiding officer shall appoint one of the council members as city clerk pro tempore, although in code cities jurisdictions, the mayor presiding officer, the council or the clerk may appoint some other qualified person. Duties most commonly performed by city clerk Clerks during council meetings are discussed in this chapter.~~ The scope of duties ~~varies from entity to entity may vary from city to city,~~ and additional duties may be performed by the ~~city clerk~~Clerk as a matter of local practice.

2.04.0230 MEETING PREPARATION OF COUNCIL CHAMBERS

~~Meeting p~~Preparation ~~of the city council~~council chamber should be done by the ~~city clerk~~Clerk or at his or her direction. Sufficient time should be allowed to ensure that the ~~room~~chamber is fully prepared prior to commencement of the ~~city council~~council meeting. Some ~~city clerk~~Clerks utilize a check list for this procedure, which might contain the following items:

1. Verify ~~city council~~council quorum. ~~(Council unable to attend should notify the Clerk in advance, quorum is defined later in this Chapter and RCW 42.30).~~
2. Verify minister for invocation (if part of your proceedings.)
3. Name plates at correct places.
4. Gavel and sounding block at ~~mayor presiding officer's~~ ~~place~~seat.
5. ~~Paper and P~~pens or sharpened pencils ~~at council places.~~
6. ~~Water pitchers and glasses at council places.~~

7. Check microphones ~~at each councilmember's location in the chamber to make sure it is in working order.~~
8. Set up public address system ~~and ensure it is in working order, as well as auxiliary speakers if overflow crowd is expected.~~
9. Set up and test recording system.
10. Assure that there are ample copies of the agenda ~~and agenda packet~~ available for the public, ~~and provide an agenda packet for public review.~~
11. Check position of the flags (American flag to the right of the ~~mayor/presiding officer~~ if ~~mayor/presiding officer~~ is raised above the level of the audience, and to the right of the audience if ~~mayor/presiding officer~~ is on same level). If other flags are displayed they should be placed to the left of the American flag in the order of state, county, city. (As you face the dais, the flags would be placed from left to right.)
- ~~12. Check meeting room calendar or individual calendars.~~
- ~~13. Assemble city clerk/Clerk materials.~~
~~— Check supply of speaker cards and pencils (if used).~~
- ~~14-12. Arrange for ADA accommodations in accordance to Federal Law.~~
- ~~15. Place agenda material on the area provided for the the public/press.~~
- ~~16. Place applicable RCW's Title 35/35A and Municipal Codes at the Attorney's place.~~

~~On occasions when the city council/council meeting is held at a location other than the council chamber, the city clerk/Clerk should supervise arrangements and provide the same equipment and materials as if the meeting were to be held in the council chamber.~~

~~The same basic "set up" should be followed even in smaller cities/jurisdictions in which there is no public address system, or very few citizens attend the meetings. Since the council and mayor/presiding officer represent the individual jurisdiction/city, it is the duty of the city clerk/Clerk to assist in every way to enhance the public image.~~

~~2.04.0340 ASSISTANCE AT MEETINGS:~~

~~In many cities/jurisdictions a stenographer is assigned to accompany the city clerk/Clerk to council meetings to record the discussions and actions by whatever means is provided by the individual city. In other cities/jurisdictions the notes are taken by the city clerk/Clerk. The city clerk/Clerk may find it helpful to take to the meeting background material and/or files on agenda items, in the event the city council/council makes reference to a previous action or needs more information on an item.~~

~~If someone accompanies the city clerk/Clerk to the council meeting, it is helpful for that person to sit close to the city clerk/Clerk in case the two need to confer during the meeting, or in the event the city clerk/Clerk needs to send for records or have copies prepared of an item presented to the city council/council from the public.~~

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2.04.040 PARLIAMENTARY PROCEDURE.

In 1876, General Henry M. Robert developed a manual of parliamentary procedure which he entitled Robert's Rules of Order. This manual followed the rules of the United States House of Representatives as a base but was designed for use of ordinary societies. The manual was published as Robert's Rules of Order in 1876 with the full title of "Pocket Manual of Rules of Order for Deliberative Assemblies." Between 1912 and 1915, the General revised his Rules of Order to incorporate all of the comments and letters received since the first publication.

These rules are generally followed now by a wide spectrum of organizations such as government and private corporation and are also used in much less formal meetings such as clubs and committees. The rules are typically adopted by Resolution. Henry M. Robert stated in the first manual that "While it is important to every person in a free country to know something of parliamentary law, this knowledge should be used only to help, not to hinder business. One who is constantly raising points of order and insisting upon a strict observance of every rule in a peaceable assembly in which most of the members are...(unfamiliar with) these rules and customs, makes himself a nuisance, hinders business and prejudices people against parliamentary law. Such a person ... either (does not understand) its real purpose or else willfully misuses his knowledge."

There are various distant education courses and reference materials offered by the National Association of Parliamentarians (<http://www.parliamentarians.org>) and the American Institute of Parliamentarians (<http://aipparlipro.org>).

2.04.050 CONDUCT OF MEETING.

The state statutes for each ~~jurisdiction class of city~~ provide general authority ~~for the council~~ to establish rules for the conduct of meetings. This includes authority to utilize agendas, limit debate and eject unruly persons. The procedures hereinafter set forth are suggestions to be followed in the absence of adoption of specific Rules of Order.

1. Processing of Motions.

When a motion is made and seconded, it should be restated by the presiding officer before debate (the ~~city clerk~~Clerk may be requested to read the motion). ~~The motion then belongs to the whole council~~body. A motion may not be withdrawn by the mover without the consent of the member seconding it and the approval of the ~~council~~body.

a. ~~Motions out of order.~~ The ~~mayor~~presiding officer may at any time, by majority consent of the members, permit a member to introduce an ordinance, resolution, or motion out of the regular agenda order of business.

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b. Division of Question. If the question contains two or more divisible propositions, the ~~mayor~~presiding officer may, and upon request of a council member shall (unless appealed), divide the question and require a vote on each portion of the question.

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2. Precedence of Motion.

When a motion is before the council~~body~~, no unrelated motion shall be entertained except: (a) to adjourn, (b) to fix the hour of adjournment, (c) to lay on the table, (d) to call for the previous question, (e) to postpone to a certain day, (f) to refer, (g) to amend, and (h) to postpone indefinitely. These motions shall have precedence in the order indicated.

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a. Motion to adjourn. (not debatable) A motion to adjourn shall be in order at any time, except as follows: (a) when repeated without intervening business or discussion; (b) when made as an interruption of a member while speaking; (c) when the previous question has been ordered; and (d) while a vote is being taken. A motion to adjourn "to another time" is debatable only as to the time to which the meeting is to be adjourned.

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b. Motion to fix hour of adjournment. Purpose is to set a definite time at which to adjourn. ~~Not Un~~debatable ~~or and un~~amendable except as to time set.

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c. Motion to table. Purpose is to temporarily bypass the subject. A motion to "lay on the table" is ~~un~~nondebatable and shall preclude all amendments or debate of the subject under consideration. If the motion shall prevail, the matter may be "taken from the table" at any time prior to the end of the ~~next regular~~ meeting and if not taken from the table the question is suppressed.

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d. Motion for previous question. Purpose is to close debate on main motion. ~~NonUn~~debatable. Just shouting "question" does not accomplish the same thing. If motion fails, debate is reopened; if motion passes, then vote on the main motion is in order.

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e. Motion to amend. (debatable only as to amendment) A motion to amend an amendment is in order, but one to amend an amendment to an amendment is not. An amendment modifying the intention of a motion is in order, but an amendment relating to a different matter shall not be in order. (A substitute motion on the same subject is acceptable.) Amendments are voted first, then the main motion as amended.

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f. Motion to postpone. A motion to postpone indefinitely is fully debatable and if the same is adopted, the principle question shall be declared lost. Motions to postpone to a definite time are amendable and debatable as to propriety of postponement and time set. Motions to "refer" are similarly not debatable except for the propriety of referring.

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3. Voting.

The ~~city clerk~~Clerk shall enter the vote upon record.

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a. Roll Call. Upon demand of any member, made before the negative has been put, the roll call shall be called for yeas and nays upon any question before the ~~council~~body. It shall not be in order for members to explain their vote during the roll call. Any member may challenge his vote before the next order of business.

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b. Failure to vote. Every member should vote unless disqualified for cause accepted by vote of the ~~council~~body or by opinion of the ~~city~~attorney. Self-disqualification, with approval, which results in a tie vote, should be avoided as thwarting ~~council~~the action of the body.

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i. The abstainer, in effect, "consents" that a majority of the quorum may act for him. While there is one view-point which says that silence (by express abstention or otherwise) constitutes an affirmative vote, the far safer rule is to assume that the "votes" of ~~council~~members who are present but do not vote may not be counted for any purpose. Under this rule, only the audible ayes and noes may be counted.

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ii. Tie votes are "lost" motions, and may be reconsidered later, but a lost motion does not imply the con verse--thus a lost motion is not a tantamount to a denial.

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iii. Reconsideration. Any member who voted with the majority may move a reconsideration of any action at the same meeting (or "have entered on the minutes" for vote at the next succeeding meeting), providing no legal rights have intervened to create an estoppel. After a motion for reconsideration has once been acted on, no other motion for a reconsideration thereof shall be made without unanimous consent.

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2.04.060 ~~CITY CLERK~~CLERK'S ROLE.

During the course of a ~~city council~~council meeting, the ~~city clerk~~Clerk may be called upon to perform some or all of the following tasks:

1. Call the roll.
2. Handle ~~city council~~council correspondence.
3. Read titles of resolutions and ordinances.
4. Repeat motions upon request.
5. Call roll for roll call votes.
6. Summarize votes for audience (if voting board is used).

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~~Several jurisdictions use digital audio or visual recording. This equipment and practice varies greatly on the entities population and budget.~~

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~~Since the purpose behind the use of recording equipment is to insure accuracy, it is important that a procedure be established by the city council council for participants at the meetings to identify themselves before addressing the council. Many city clerk Clerks have instituted a sign-in or citizen comment formssheet or speaker cards to assist in the spelling of names.~~

2.04.090 METHODS OF RECORDING VOTE.

Although other voting methods may be acceptable, a common practice in the voting on motions is for the ~~mayor~~presiding officer to call for "all those in favor?", then call for "those opposed?", and declare the motion carried or ~~failed~~rejected. Usually the words "ayes" for those in favor and "n~~ay~~ees" for those opposed are used. When a ~~council~~member is silent, he or she is recorded as abstaining. Some ~~city council~~councilbodiess require a vote granting permission for a ~~council~~member to abstain. Where a difference of opinion is sensed or the majority vote is not clear, and a ~~council~~member requests a roll call vote, the ~~mayor~~presiding officer will call for a roll call vote by the ~~city clerk~~Clerk or, in some ~~cities~~jurisdictions, by the ~~city~~ manager or ~~city~~ administrator.

A roll call vote is also generally necessary for the adoption ~~of a resolution or the passage~~ of an ordinance, because of the need to ensure that a majority of affirmative votes have been cast.

When calling the roll on motions, some possible sequences of calling include:

1. Alphabetically, with ~~mayor~~presiding officer last.
2. In order of seating, left to right, with ~~mayor~~presiding officer last.
3. Maker and second~~er~~ of motion first, then alphabetically, with ~~mayor~~presiding officer last.

Some ~~council chambers- meeting locations~~ are equipped with electronic voting devices where a ~~council~~member records ~~the~~his vote by pressing a button ~~at his place~~. A tally board visible to the ~~city clerk~~Clerk indicates when all votes have been cast, ~~and then by the flip of a button~~ makes the results visible to all. ~~The city clerk then and~~ declares the results of the vote. This method avoids the complaint that one ~~council~~member always votes first or last.

2.04.100 COUNCIL MEETINGS GENERALLY.

~~City Councils may establish their own policies and procedures for posting agendas and the conduct of their meetings. However, there are certain laws that must be observed. A council meeting is held any time a majority or a quorum of the members are gathered for the purpose of reviewing and/or making decisions pertaining to the jurisdiction's city business. Generally, a~~

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WMCA Chapter 2 – Meeting, Agenda, Minutes

Updated 2012

Page 8 of 37

quorum is defined as a majority of the councilmembers. (i.e., in a five member council, three members constitute a quorum). A quorum is required for the transaction of city business.

2.04.1050 RECESSES.

Recesses are generally called by the ~~presiding officer~~mayor or sometimes at the request of a ~~council~~member. ~~Usually t~~he presiding officer ~~mayor~~ will state the expected period of time of the recess. Recesses are not a device a ~~city council~~councilbody may employ to avoid the Open Public Meetings Act; ~~therefore, a city council~~council should definitely avoid having a quorum session in a back room or any appearance of conducting public business during the recess.

The ~~city clerk~~Clerk should note for the record the time of the recess, the time the meeting reconvened, and the ~~city council~~councilmembers present.

~~2.04.160 CLOSED OR EXECUTIVE SESSIONS.~~ RCW 42.30.110 specifies certain topics for which the ~~city council~~council is permitted to meet privately; in what are termed executive sessions. The allowable subjects for executive sessions are discussed in the chapter on the Open Public Meeting Act.

~~Before convening in executive session, the presiding officer must publicly announce the general purpose of the session, cite the corresponding RCW, and the time the session will be concluded (sometimes done with a formal motion and vote of the council). The time of the executive session may be extended by subsequent announcement of the presiding officer. In either case it is advisable that the city council~~council convene for roll call prior to ~~a~~ adjourning or recessing to closed session. The information is clearly stated in the meeting minutes for audit purposes.

~~The city council~~council has the option to request the presence of specific staff advisors, such as the city manager or the city attorney. ~~The city attorney must be present for any discussion regarding litigation. The city clerk~~Clerk attends closed sessions only on request of the ~~city council~~council, or the city manager, and ~~Meeting minutes or other recording are not required.~~

2.04.1170 PARTICIPATION BY THE PUBLIC.

~~City~~MCouncil meetings are primarily structured to permit its members to arrive at the decisions necessary to govern the ~~city~~jurisdiction. In some ~~cities~~jurisdictions this may preclude public participation except at required public hearings.

Where participation by the public is a matter of requirement under a specific code, it is important to ensure that all who wish to participate have been recognized and heard. ~~A convenient method is the use of speaker's cards.~~ Generally in public hearing cases, the

~~mayor~~presiding officer will ask that those in favor speak first, followed by those in opposition, and then will provide an opportunity for rebuttal by the applicant (if applicable).

The extent to which members of the public are invited to participate regarding other agenda items is a matter of local custom. Some cities~~jurisdictions~~ simply require that a person approach the microphone in order to be recognized. Most jurisdictions have a specific section of the agenda set aside for "Citizen Comment" or "Oral Communications - Public."

~~Most cities~~jurisdictions ~~have a specific section of the agenda set aside for "Citizen Comment" or "Oral Communications - Public."~~ In some cities~~jurisdictions~~ this section is towards the end of the agenda, after all listed matters have been handled. Other cities~~jurisdictions~~ place this section towards the beginning of the agenda to prevent persons from having to sit through what may be a very lengthy meeting. Again, this is a matter of individual council preference. Some city council~~councils~~ set the order for listing agenda items in an adopted "manual of procedure" or "resolution of procedure" for city council~~council~~ meetings.

Some cities~~jurisdictions~~ have found it necessary to impose strict rules on public participation. In other cities~~jurisdictions~~ the ~~mayor~~presiding officer will simply spell out, at each meeting, the limitations on public comments, such as a time limit or requirement for placing name on the record (card or announcement).

2.04.1280 DISTURBANCES AT CITY COUNCIL~~COUNCIL~~ MEETINGS. From time to time disruptions may occur at city council~~council~~ meetings. Preplanning for such an eventuality is highly recommended.

Most public meeting rooms have posted in a conspicuous place a sign stating the maximum number of people allowed to assemble therein. ~~You may wish to request a representative from the fire department be present at city council~~council meetings where large crowds are expected to enforce this limitation.

If at all possible the city council~~council~~ body should have a separate exit so in the event of a disturbance they will not have to exit through the audience. Many cities~~jurisdictions~~ immediately recess the meeting when decorum is lost.

Some cities~~jurisdictions~~ routinely have a ~~sergeant at arms or a~~ representative of the police department present during all city council~~council~~ meetings. Other cities~~jurisdictions~~ have an alarm system (usually controlled by the ~~mayor~~presiding officer, ~~city clerk~~Clerk or city manager) which alerts the police department when assistance is needed.

~~In planning for this eventuality, the local situation should be kept in mind. In certain communities or situations, fire prevention personnel or plain clothed police personnel may be~~

~~preferable to using uniformed police officers.~~The Open Public Meeting Act permits ~~the clearing of the council chamber~~ in the event the orderly conduct of a meeting is disturbed. As in other aspects of the ~~city council council~~ meeting, some ~~cities jurisdictions~~ have set an established plan for handling disturbances by adopting a "manual of procedures" or "resolution of procedure". The function of the ~~city clerk Clerk~~ in such situations is merely to remain ~~cool calm~~ and alert, to be helpful ~~to the city council council~~ under trying circumstances, ~~and to remain sufficiently calm to handle the recording equipment, retrieval of needed documents, etc.~~

~~2.04.1390 ADJOURNMENT AND CLOSING CITY COUNCIL COUNCIL CHAMBERS.~~

~~Adjournment of the city council meeting is customarily by motion of the city council, although many cities have adopted a "unanimous consent" format and the mayor simply declares the meeting adjourned. The city clerk should note the time for the record for those cities whose minutes include the time of closing.~~

~~If at any time during the course of the meeting a city councilmember departs from the chamber and leaves the city council without a quorum, it is the duty of the city clerk to call this fact to the attention of the mayor.~~

~~The city clerk has the responsibility of adjourning a meeting where no councilmembers are present.~~

~~Closing the city council council chambers may be the responsibility of the city clerk Clerk, whether or not custodial assistance is provided. A possible check list is shown as follows:~~

- ~~1. Turn off recording equipment and sound system.~~
- ~~2. Secure building (lights, lock doors, etc.)~~
- ~~3. Store microphones, name plates, gavel and sounding block, pads, pencils, etc.~~
- ~~4. Post notice of adjournment and time, place and date of next meeting on bulletin board for all adjourned meetings and hearings which have been continued. This must be done within twenty-four hours of the time of adjournment.~~
- ~~5. Retrieve any original documents used by the city council council during the meeting.~~

~~2.04.140200 COUNCIL MEETING FOLLOW-UP.~~

In many ~~cities jurisdictions~~ the ~~city clerk Clerk~~ issues a summary of ~~council~~ actions or annotated agenda early on the day after a ~~council~~ meeting (if held in the evening), or immediately following the meeting (if held during the daytime). The purpose is to disseminate needed information to ~~city~~ staff in a timely manner, since formal minutes may be some time in being finalized. Some ~~city clerk Clerks~~ broaden this distribution to include the press. This device can

cut down on the number of individual inquiries and other departments can quickly be alerted to actions to be taken which affect their operation. ~~If your agenda is prepared on a word processor or computer, you can simply~~ Some entities add the "ACTIONS BY COUNCIL" as annotations to each agenda item.

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Chapter ~~2.016~~ Open Public Meetings Act

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Sections:

- ~~2.016.010~~ Generally.
- ~~2.016.020~~ Purpose.
- ~~2.016.030~~ Applications.
- ~~2.016.040~~ Definitions.
- ~~2.016.050~~ Regular ~~Two kinds of~~ meetings.
- ~~2.016.060~~ Special meetings and Study Sessions
- ~~2.06.065~~ Emergency meetings.
- ~~2.016.0760~~ Place of meetings.
- ~~2.016.0870~~ Conduct of meeting.
- ~~2.016.0980~~ Executive sessions.
- ~~2.16.090~~ Minutes. ~~2.016.100~~ Violations/remedies.

~~2.016.010~~ GENERALLY.

Before 1971, this state had an "open meetings" law which was then codified as Ch. 42.32 RCW. It was ineffective, however, because it required only the "final" action of the ~~council or other~~ body to be taken in public (such as the final vote on an ordinance, resolution, motion, or contract). The Open Public Meetings Act of 1971 (now Ch. 42.30 RCW) made some drastic changes. Most importantly, it requires that all meetings of state and municipal governing bodies must be open and public, with the exception of courts and the legislature.

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Furthermore, a "meeting" generally includes any situation in which a majority of the council or other "governing body" meet and discuss the business of that body. Social gatherings are expressly excepted, unless the body's business is discussed. What follows is a more detailed examination of the 1971 Act, Ch. 42.30 RCW.

Policies and procedures may be established for the conduct of meetings. However, there are certain laws that must be observed. A meeting is held any time a majority or a quorum of the members are gathered for the purpose of reviewing and/or making decisions pertaining to the jurisdiction's business. Generally, a quorum is defined as a majority of the members. (i.e., in a five member council, three members constitute a quorum). A quorum is required for the transaction of business.

Councils may establish their own policies and procedures for posting agendas and the conduct of their meetings. However, there are certain laws that must be observed. A council meeting is held any time a majority or a quorum of the members are gathered for the purpose of reviewing and/or making decisions pertaining to the jurisdiction's business. Generally, a quorum is defined as a majority of the councilmembers. (i.e., in a five member council, three members constitute a quorum). A quorum is required for the transaction of business.

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2.016.020 PURPOSE.

The declared purpose of the 1971 Open Public Meetings Act (Ch. 42.30 RCW) is to make all meetings of the governing bodies of public agencies, even informal sessions, open and accessible to the public, with only minor specific exceptions.

The legislature intends that public agencies' actions and deliberations be conducted openly. (RCW 42.30.010)

Meetings must be open and public; all persons must be allowed to attend unless otherwise provided by law. (RCW42.30.030)

Ordinances, rules, etc. must be adopted at open public meetings; otherwise they are invalid. (RCW 42.30.060)

A vote by secret ballot at any meeting that is required to be open is also declared null and void. (RCW 42.30.060)

The act must be liberally construed to accomplish its purpose. (RCW 42.30.910)

2.106.030 APPLICATIONS.

The Act applies to all meetings of:

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WMCA Chapter 2 – Meeting, Agenda, Minutes

Updated 2012

Page 13 of 37

1. All multi-member governing bodies of state and local agencies, and their subagencies. (RCW 42.30.020)
 - a. "Subagency" means a board, commission, or similar entity created by or pursuant to state or local legislation, including planning commissions and others. (RCW 42.30.020(1)(c))
 - b. "Governing body" includes a committee of a council or other governing body, "when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment." (RCW 42.30.020 as amended by Ch. 155, Laws of 1983)
2. Certain policy groups representing participants who have contracted for the output of an operating agency's (WPPSS') generating plant. (RCW 42.30.020(1)(d))
3. The multi-member student board of a recognized student association at a public institution of higher education. (RCW 42.30.200)

The Act does not apply to:

1. Courts or the State Legislature. (RCW 42.30.020(1)(a))
2. Proceedings expressly excluded by RCW 42.30.140; namely:
 - a. Certain licensing and disciplinary proceedings
 - b. Quasi-judicial proceedings that affect only individual rights and not the general public.
 - c. That portion of a meeting held during labor negotiations to formulate collective bargaining strategy or to consider proposals submitted, and collective bargaining sessions with employee organizations.
 - d. Generally, matters governed by the State Administrative Procedure Act (Ch. 34.05 RCW).
3. Social gatherings if no "action" (as defined in RCW 42.30.020(3)) is taken. (RCW 42.30.070) Note: see the following explanation of "action."

~~2.016.040~~ DEFINITIONS.

Meeting: meetings at which "action" is taken. (RCW 42.30.020(4))

Action: all transacting of a governing body's business, including receipt of public testimony, deliberations, discussions, considerations, reviews, and evaluations, as well as "final" action. (RCW 42.30.010) (RCW 42.30.020(3))

~~2.016.050~~ ~~REGULAR TWO KINDS OF MEETINGS.~~

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1- ~~Regular Meeting:~~ RCW 42.30.060. -075, ~~defines~~ a recurring meeting held pursuant to a schedule fixed by statute, ordinance, or other appropriate rule.

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A schedule of a state agency's regular meetings, and changes, must be filed with the code reviser for publication in the Washington State Register. (RCW 42.30.075)

If the designated time falls on a holiday, the regular meeting must be held on the next business day.

There is no statutory limitation as to the kind of business that may be transacted at a "regular" (as distinguished from "special") meeting.

~~Regular meetings of the council governing body are required to be held at least once a month at a time fixed by ordinance, resolution or bylaw, at a designated place within the corporate limits of the jurisdiction. If a regular meeting falls on a holiday, it shall be held on the next business day.~~

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~~An adjourned regular meeting is accomplished by adjourning the previous regular meeting to a specific time, date and place. A meeting cannot be adjourned past the next regular meeting date. Any council matter may be handled at an adjourned regular meeting, limited only by any rules or procedures of individual councils. In most jurisdictions it is standard procedure to prepare a separate agenda, complete with backup material for the council, staff, and the press.~~

~~Whenever a meeting is adjourned, notice of the order of adjournment should be posted on or near the door of the place of the meeting being adjourned (RCW 42.30.090).~~

~~The council, or less than a quorum of the council, may adjourn all meetings to a time and place specified in the order of adjournment. If all members are absent from any meeting, the Clerk may adjourn the meeting to a specified time and place, but notice must be provided as is required for a special meeting. Once adjourned, a meeting may not be reconvened.~~

2.016.060 SPECIAL MEETINGS.

2- ~~Special Meeting:~~ RCW 42.30.080 defines a special meeting as any meeting other than "regular."

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A special meeting may be called by the presiding officer or a majority of the members.

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It must be announced by written notice to all members of the governing body; also to members of the news media who have filed written requests for such notice. The notice:

- a. Must specify the time and place of the meeting and the business to be transacted.

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- b. Must be delivered personally or by mail 24 hours in advance.
- c. May be waived by a member. (See RCW 42.30.080 for specifics.)
- d. Is not necessary in specified emergencies. (See, also, RCW 42.30.070.)

Only the business specified on the notice may be transacted at a special meeting.

The notice must be posted prominently at the main entrance of the agency's principle location, at the meeting site if not held at the principle locations and on the agency's website unless there are no employees who maintain the website.

In second class jurisdictions and towns, there are some statutory restrictions as to what types of actions may be taken at a special meeting. For example, in towns no resolution or order for the payment of money may be enacted at a special meeting. See RCW 35.23.181 for second class jurisdictions, and RCW 35.27.270 for towns.

Study sessions, often called "work sessions," are sometimes held during, just prior to or just after regular meetings. They can also be scheduled on any other day and time. These sessions are usually informal, though they must be open to the public, and many councils governing bodies prefer to hold the sessions in a place other than the formal setting of the council chamber. Study sessions that are not conducted as part of a regular meeting are considered special meetings. These meetings allow the governing body council an opportunity to discuss a matter in detail without taking any action or public comment.

2.06.065 EMERGENCY MEETING.

Special meeting notice requirements may be dispensed with when 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 the time requirements of the notice would make notice impractical and increase the likelihood of such injury or damage.⁴⁴ An emergency meeting must, nevertheless, be open to the public.

2.016.0760 PLACE OF MEETINGS. As far as the Open Meetings Act is concerned, the a special meeting may be held any place within or outside the territorial jurisdiction of the body unless otherwise provided in the act under which the agency was formed. (RCW 42.30.070) However, the meeting place should not be designed to exclude members of the public. (RCW 42.30.030)

The place of a special meeting must be designated in the notice. (RCW 42.30.080)

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In certain emergencies requiring expedited action, the meeting or meetings may be held in such place as is designated by the presiding officer and notice requirements are suspended. (RCW 42.30.070 and 42.30.080)

2.016.0780 CONDUCT OF MEETINGS.

All persons must be permitted to attend (RCW 42.30.030) except unruly persons as provided in RCW 42.30.050.

Attendance may not be conditioned upon registration or similar requirements. (RCW 42.30.040) (The act does not prohibit a requirement that persons identify themselves prior to testifying at hearings.)

Disorderly Conduct:

1. Disorderly persons may be expelled.
2. If expulsion is insufficient to restore order, the meeting place may be cleared and/or relocated.
3. Non-offending members of the news media may not be excluded.
4. If the meeting is relocated, final action may be taken only on agenda items. (RCW 42.30.050)

Adjournments/Continuances: RCW 42.30.090-.100 provides that any meeting (including hearings) may be adjourned/continued to a specified time and place.

Adjournment of the council meeting is customarily by motion of the council, although many jurisdictions have adopted a "unanimous consent" format and the presiding officer simply declares the meeting adjourned. The Clerk should note the time for the record for those jurisdictions whose minutes include the time of closing.

If at any time during the course of the meeting a councilmember departs from the chamber and leaves the council without a quorum, it is the duty of the Clerk to call this fact to the attention of the presiding officer.

An adjourned/continued regular meeting is accomplished by adjourning the previous regular meeting to a specific time, date and place. A meeting cannot be adjourned past the next regular meeting date. Any governing body matter may be handled at an adjourned regular meeting, limited only by any rules or procedures of such individual governing body. In most jurisdictions it is standard procedure to prepare a separate agenda, complete with backup material for the council, staff, and the press.

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Whenever a meeting is adjourned, notice of the order of adjournment should be posted on or near the door of the place of the meeting being adjourned (RCW 42.30.090).

The governing body, or less than a quorum of the governing body, may adjourn all meetings to a time and place specified in the order of adjournment. If all members are absent from any meeting, the Clerk may adjourn the meeting to a specified time and place, but notice must be provided as is required for a special meeting. Once adjourned, a meeting may not be reconvened.

~~1.~~ _____

~~2.016.0980 EXECUTIVE SESSION:RCW 42.30.110.~~

An executive session is defined as that portion of a meeting from which the public may be excluded. (~~RCW 42.30.110~~) It is permissible when:

1. Considering matters affecting national security.
2. Considering 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;
3. Considering 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 must be taken in a meeting open to the public;
4. Reviewing negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;
5. Receiving and evaluating complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or meeting open to the public must be conducted upon such complaint or charge;
6. Evaluating the qualifications of an applicant for public employment or reviewing the performance of a public employee. However, ..." (except when certain exempted labor negotiations are involved), 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 ..." Furthermore, the final action of hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, must also be taken in an open public meeting. Many attorneys now take the position that this exception allows an executive session to review applications for appointive public office and to review the performance of public officers, as well as employees.

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7. Evaluating 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;
8. Discussing with legal counsel representing the agency matters relating to agency enforcement actions; or 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." (RCW 42.30.110(1), in part)

Conduct of Executive Sessions

An executive (closed) session must be part of a regular or special meeting. (RCW 42.30.110)

Before convening in executive session, the presiding officer must publicly announce the purpose for excluding the public and the time when the executive session will conclude. The executive session may be extended by announcement of the presiding officer. (RCW 42.30.110(2))

Final adoption of an "ordinance, resolution, rule, regulation, order or directive" must be done in the "open" meeting. (RCW 42.30.060)

Before convening in executive session, the presiding officer must publicly announce the general purpose of the session, cite the corresponding RCW, and the time the session will be concluded (sometimes done with a formal motion and vote of the council). The time of the executive session may be extended by subsequent announcement of the presiding officer. In either case it is advisable that the council convene for roll call prior to a closed session. The information is clearly stated in the meeting minutes for audit purposes.

The council has the option to request the presence of specific staff advisors, such as the city manager or the city attorney. The city attorney must be present for any discussion regarding litigation. The Clerk attends closed sessions only on request of the presiding officer or governing body council. Meeting minutes or other recording are not required or recommended.

Documents reviewed during an Executive Session are not always a public record, see RCW 42.56, Public Records Disclosure for specific guidance. and extra copies are typically destroyed after

2.16.090 MINUTES -- RCW 42.32.030. Minutes of regular and special meetings must be promptly recorded and open to public inspection. No minutes are required to be recorded for

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~~executive sessions. (However, prudence may suggest that a record of some kind be kept the meeting.)~~

2.016.100 VIOLATIONS/ REMEDIES:

~~Ordinances, rules, resolutions, regulations, orders, or directives adopted in violation of the act are invalid. (RCW 42.30.060)~~

~~A member of a governing body who knowingly participates in violating the act is subject to a \$100 civil penalty. (RCW 42.30.120)~~

~~Mandamus or injunctive action may be brought to stop or prevent violations. (RCW 42.17.130)~~

~~Any person may sue to recover the penalty or to stop or prevent violations. (RCW 42.30.120 .130) Auditor/Attorney General may enforce. (RCW 43.09.260 – 330)~~

~~A person prevailing against an agency is entitled to be awarded all costs including reasonable attorneys' fees. However, if the court finds that the action was frivolous and advanced without reasonable cause, the court may award to the agency reasonable expenses and attorneys' fees. (RCW 42.30.120(2))~~

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Chapter 2.08 Agendas

Sections:

- 2.08.010 Philosophy--purpose.
- 2.08.020 Order of business.
- 2.08.030 Content of the agenda.
- 2.08.040 Explanation of headings.
- 2.08.050 Suggestions for preparation of agenda.
- 2.08.060 Agenda packets.
- 2.08.070 Organization of packets.
- 2.08.080 ~~Internal~~ Duplication.
- 2.08.090 ~~Public~~ Distribution of packets.

2.08.010 PHILOSOPHY--PURPOSE.

The agenda may be viewed as a program invitation, to be prepared concisely, accurately, in a logical order and generally to present to its reader a clear picture of what business will be considered. Since ~~municipal clerk~~ Clerks are in the business of providing a monopoly service to

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citizens, care should be given to produce a professional document that will aid the body's presiding officer and its members to conduct an orderly, open and effective meeting.

The purpose of an agenda is to provide a framework within which a meeting can be conducted. Each city jurisdiction will have to decide on the agenda format which will best suit its needs. The suggested agenda formats exhibited in this chapter include items which are likely to come before a city council council governing body.

~~However, the order in which they are listed must be at the discretion of the individual city council. Many city councils adopt their agenda format by resolution or ordinance, and in the same resolution or ordinance they may establish rules of conduct for meetings. State statutes authorize the council to establish such rules, but do not spell out the legal means for doing so. Some councils choose to follow the aforementioned Robert's Rules of Order.~~

2.08.020 ORDER OF BUSINESS.

~~The order in which items are listed must be at the discretion of the individual council governing body. Many councils governing bodies adopt their agenda format by resolution or ordinance, and in the same resolution or ordinance they may establish rules of conduct for meetings. State statutes authorize the governing body council to establish such rules, but do not spell out the legal means for doing so. Some governing bodies councils choose to follow the aforementioned Robert's Rules of Order.~~

~~The form or order of business to be listed on the agenda may be prescribed by ordinance, resolution, rules, or simply by custom and practice. Such order can be most significant in determining the flow of business.~~

2.08.030 CONTENT OF THE AGENDA.

The following is a non-comprehensive list of headings/items which are included in many agendas for a regular meeting. Many of these headings are self-explanatory, while others will be described in more detail. The content on a special meeting cannot be changed without proper notice prior to the meeting and therefore the jurisdiction is limited to make decisions only on the items on an agenda properly posted in advance of the meeting.

Headings or groupings of headings can be consolidated and modified to meet the specific needs and ambience of the particular jurisdiction. The terminology used should be that which best identifies with a particular organization.

- Type of meeting (regular, special, adjourned, recessed)

- Name of body (~~city council~~council, redevelopment agency, ~~city~~-commission)
- Date of meeting
- Place of meeting (address, room number or name)
- Time of meeting
- Invocation, if any
- Call to order; roll call
- Pledge of Allegiance
- Approval of minutes of prior meeting(s)
- Approval of the agenda
- Public comment (~~note any time limitation to be observed by the speaker~~)
- Ceremonial matters (presentations, awards, proclamations, introductions)
- Consent calendar (~~routine and ministerial business matters previously specifically determined to be non-controversial~~).
- ~~Recommendations from officers and departments (policy or controversial business matters may be classified by sub-headings, such as: attorney, clerk, manager)~~
- Public hearings (legally advertised and set for a specific time)
- Unfinished ~~Old~~ business (~~unfinished~~ items from a recent~~-prior~~ meetings)
- New ~~b~~Business
- Directors and /council reports ~~and comments~~
- Communications
- Informational matters
- ~~Ordinances and Resolutions~~

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- Executive session (~~as allowed by the reference RCW 42.30~~, Open Public Meetings Act)
- Adjournment

2.08.040 EXPLANATION OF HEADINGS:-

Public Comment. An established and identified time on the agenda where members of the public may address the body on items NOT on the ~~printed~~ agenda. It is recommended that the rules of order of business contain a policy statement as to the manner and length of time permitted to an individual who wishes to address the body. It is then appropriate to note this time limitation on the public agenda.

Consent Calendar. A consent calendar contains routine items which are not controversial in nature and which do not need further discussion. These items should have been reviewed by management and have been determined to be non-controversial and routine, such that no discussion is necessary due to their very nature. The consent calendar may include:

- Approval of Vouchers ([Claims](#))
- Approval of Minutes
- ~~Setting Public Hearings~~
- [Approval of Payroll](#)
- Approval of Budgeted Contracts
- ~~Award of Budgeted Bids~~
- [Acceptance of Completed Projects](#)
- Confirmation of previously discussed issues

It is recommended that consent calendar items be physically grouped together on the printed agenda and that the recommended action be ~~provided to the council governing body at the meeting printed on the agenda~~. It is also appropriate to add an explanatory note to the public that consent agenda items are considered routine and may be adopted by one motion which should be unanimous-.

~~Items removed from the Consent Agenda during the agenda approval process should be voted on individually following the discussion of the item.~~

2.08.050 SUGGESTIONS FOR PREPARATION OF AGENDA.

1. Use specially designed Agenda forms or [city-agency](#) letterhead.
- ~~2. Center the meeting date, time, and place block.~~
- ~~3. Capitalize and underline major headings.~~
- ~~4. Number major headings.~~

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- ~~5. Use capital letter designators for major sub-headings; and numbers for subs under those sub-heads. If more subs are required, use lower case letters.~~
- ~~6. Double space between subjects.~~
- ~~7. Single space if a subject is more than one line.~~
- ~~8.2. Be consistent when using capitalization of titles or proper names of organizations, districts, or companies.~~
- ~~9.3. Avoid acronyms or abbreviations not generally known to the public.~~
- ~~10. Attempt to be politically sensitive as to the order of placement of items on the agenda, and as to titling.~~
- ~~11.4. Be realistic when scheduling time-specific items so that sufficient time is given for deliberation and concluding action.~~
- ~~12.5. Prepare a draft agenda for appropriate managers and/or elected officials to review.~~
- ~~13. Be receptive to changes in agenda where revisions would expedite the conduct of business.~~
- ~~14. Make sure that the council has been provided with the information they need to make a decision about the items on the agenda.~~
- ~~15. Attempt to spread newsworthy items out evenly over agendas, so that the media is not faced with one agenda with too many important items to cover properly, and another with nothing of real significance to write about.~~
- ~~16.6. When wording agenda item headings use objective, fact-based terms.~~
- ~~17. Due to court cases in some states, some jurisdictions municipalities have a statement on the agenda indicating that any subject placed on the agenda, regardless of how the matter is stated on the agenda, may be acted on by the city council council. This insures items labeled "Consideration of ..." or "Discussion regarding ..." may be legally approved at the meeting. In addition, the council may legally add and act on items not appearing on the agenda at a regular or adjourned regular meeting.~~
- ~~17.7. Indicate on the bottom of the agenda if the meeting is being recorded.~~

[Examples of other jurisdictions agenda formats can be found online.](#)

2.08.060 AGENDA PACKETS.

[Agenda Packets consist of more detailed information from staff for the council on the agenda items.](#)

[ORGANIZATION OF PACKETS.](#) In most [cities jurisdictions](#) the [city clerk Clerk](#) prepares the agenda for the [city council council](#) meetings. The agenda should be prepared by the [city clerk Clerk](#)'s office a sufficient number of days prior to the [city council council](#) meeting to allow for duplication and distribution of agenda packets to [council members](#) and staff. The [city clerk Clerk](#) should establish a definite deadline for submittal of agenda items. An example

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would be if packets are prepared for distribution on Friday, the deadline could be the preceding Wednesday at noon. This will allow time for review, possible rewrites, and assembly of packet contents for timely distribution. The established deadline should be strictly adhered to except in cases of extreme emergency. Some citiesjurisdictions establish this deadline by separate resolution or administrative regulation or as part of a resolution setting council meeting procedure, which is advisable as protection for staff.

In citiesjurisdictions which have a city-manager or administrator, the city-clerkClerk may meet with the manager and or other staff members prior to finalizing the agenda. In non-manager citiesjurisdictions the mayorpresiding officer or various department heads may be consulted by the city-clerkClerk on the final agenda. The city-clerkClerk generally does not make changes to the agenda after such a meeting unless the other officials involved are consulted or notified.

Some jurisdictions will use a formal approval process using called an 'agenda bill form' which is typically routed electronically to effected departments for review and approval prior to inclusion in the agenda packetcouncil-consideration. †The format and content varies forfrom each jurisdiction and usually includes a recommended motion for the councilgoverning body.

This is not intended to dictate to the city-councilcouncilgoverning body, but only to assist in expediting the meeting. It indicates to councilthe governing body that staff has researched an agenda item, will be able to respond to questions on an item, and in many cases, will have a recommendation-for council.

2.08.080 DUPLICATION.

Upon approval of the agenda, the clerk will compile the information using an agenda building software; it is typed in final form (either manually or through word processing), and sufficient copies are reproduced for distribution with the packets, electronically or in paper form, and for use by citizens attending the meeting.

Agenda packets may be bound loose-leaf, spiral or post; or simply stapled and rubber-banded together. Many councilmembers keep "working files" on projects so it is useful for the staff reports to be separable and distinct.

The city clerkClerk decides the number of agendas to be run. If it is anticipated that the audience will be larger than normal, extra copies of the agenda or face sheet should be run.

It is also advisable to mail agendas and staff reports to project proponents or interested parties of record on particular agenda items.

2.08.090 DISTRIBUTION OF AGENDA PACKETS.

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Agenda packets containing copies of all agenda items usually receive a limited distribution (i.e. councilmembers and department heads). Some jurisdictions are required to post a link online in accordance to RCW 42.30. Most jurisdictions have a packet available at a public counter for review by the public prior to the meeting, and extra copies at the meeting itself.

The agenda or face sheet usually receives a wider distribution and a supply should be available at the meeting for members of the audience.

The agenda packets should be distributed to councilmembers and department heads a sufficient number of days prior to the meeting to allow for review. The agenda itself will be distributed to persons on the ongoing distribution list, but not prior to receipt of the agenda by councilmembers. This is not only a matter of courtesy, as it could be embarrassing for a councilmember to be questioned on an agenda item that has not been reviewed and of which the councilmember has no knowledge. "Preliminary drafts" are exempt from public disclosure requirements if they express opinions or formulate or recommended policies.

Each entity/city handles the distribution to councilmembers differently; options include arranging for councilmembers to pick their packets up at the jurisdiction City Hall at a designated time; delivering each packet individually; installing keyed mail boxes at the jurisdiction City Hall for after pick up after regular hours of operation/pick-ups.

It is also advisable to send project proponents or interested parties of record a copy of related agenda items.

Agenda packets may be bound loose leaf, spiral or post; or simply stapled and rubber banded together. Many councilmembers keep "working files" on projects so it is useful for the staff reports to be separable and distinct.

Chapter 2.12 Minutes

Sections:

- 2.12.010 Minutes generally.
- 2.12.020 Purpose of minutes.
- 2.12.030 Content of minutes.
- 2.12.040 Standard format.
- 2.12.050 Jurisdictional matters.

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- 2.12.060 Approval of previous minutes.
- 2.12.070 Record of action taken.
- 2.12.080 Oral debates, arguments and discussions.
- 2.12.090 Hearings.
- 2.12.100 Adjournment.
- 2.12.110 Signing the minutes.
- 2.12.120 Use of tape recordings and retention.
- 2.12.130 Preparation of the minutes.
- 2.12.140 Summary--Annotated agenda.
- 2.12.150 Purpose of format.
- 2.12.160 Format characteristics.
- 2.12.170 Preparation suggestions.
- 2.12.180 Motions.
- 2.12.190 Corrections to minutes.
- 2.12.200 Excerpt from minutes.
- 2.12.210 Preservation of minutes.
- 2.12.220 Distribution.
- 2.12.230 Indexing.

2.12.010 MINUTES GENERALLY.

~~City clerk~~Clerks ~~in Washington cities~~jurisdictions are legally required to keep a permanent record, journal of proceedings or minutes of ~~city council~~council meetings. Most charter ~~cities~~jurisdictions have this requirement contained in their charter. The form in which this record is to be maintained is not spelled out in the RCW. However, this chapter gives suggestions as to format and content.

~~2.16.090 MINUTES --~~RCW42.32.030 requires ~~M~~minutes of regular and special meetings to be ~~must be~~ promptly recorded and open to public inspection.

~~No m~~Minutes are not required or recommended to be recorded for executive sessions discussions. ~~(However, prudence may suggest that a record of some kind be kept.)~~The record should show a motion of the time, reason and specific statute for an executive session. If the time stated is exceeded, ~~-the~~ council governing body should disclose an updated time to return to open session.

~~Notes and audio recordings tapes are not "minutes" but are "public records." (See RCW 42.17.310.) They may be exempt from public disclosure for particular reasons; e.g., notes or tapes of executive sessions may be withheld while the "vital governmental interest" or "personal privacy" reason for the executive session itself continues to exist. (RCW 42.17.310)~~

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While there may be working copies or file copies of all minutes in the ~~city clerk~~Clerk's office and they may be microfilmed on a regular basis, there should be official, originally signed copies of all minutes. This official record can be in various forms, but it is suggested that official minute books be kept and that they be stored in a fire-proof filing cabinet, safe, or vault or transferred to the Regional State Archives for storage. The paper in these books is usually of a specially treated type to guard against deterioration (acid free). ~~It is well to remember that~~ This is the history of your jurisdiction~~city~~, and in the event of a disaster, it will be invaluable in recreating records, etc. You may wish to consider having a duplicate set of minutes created by the microfilming department of the State Division of Archives and Records Management and kept off-site (in Cheney~~Olympia~~) in the event of a disaster.

2.12.020 PURPOSE OF MINUTES.

Keeping a good record of ~~city council~~council the proceedings of your governing body is very important. A sufficient record must be kept to furnish evidence that the ~~city~~ council~~council~~governing body has complied with the law or rules by which it is governed, thus pointing to the need for accurate and clear council proceedings. The facts contained in the minutes are also treated as evidence in a court of law.

TYPES OF MINUTES

Finally, detailed minutes make it a challenge to locate key items and decisions within the pages and pages of text. The record is far less functional when it includes remarks as well as actions.

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The argument is sometimes made that detailed minutes are important for legislative history. A group with this goal in mind should include recitals and findings about its intentions within the body of the legislation. Legislation speaks for itself.

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Robert's Rules of Order offers a simple guideline: *minutes should record what is done, not what is said*. The minutes should include decisions made, postponements, referrals to committee. They may also include a note that discussion was held, if the group wants to have it clear that they did their due diligence on a given issue. By keeping the minutes to this core of essential facts, energy and effort can be devoted to the larger issues that face all our civic bodies today.

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2.12.030 CONTENT OF MINUTES.

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Minutes need to be clear, concise, precise and unambiguous. They need to show clearly, beyond doubt, exactly what actions were taken and decisions made at the meeting but not necessarily everything that was said. Remarks that clarify the "intent" of the legislative body in its decisions should be noted.

The following is a non-comprehensive list of information to be included in the minutes:

1. Date of meeting
2. Location of meeting
3. Type of meeting (regular, ~~adjourned~~, special)
4. Time of meeting
5. Time meeting commenced
6. Officials/members present*
7. Officials/members absent*
8. Topics of business
9. ~~Actions taken on each business matter~~
10. Record of motions
11. Record of voting
12. Time of adjournment
13. Signature blocks for presiding officer and clerk/secretary

*~~Note the time of arrival or departure of a member, if applicable. If a councilmember leaves during a meeting, note time of departure and time of return, if applicable.~~

2.12.040 STANDARD FORMAT.

Use of standardized format is recommended to develop uniformity of minute entries and to save time in composing the record. ~~Creating a template if word processing equipment is utilized in the preparation of minutes, a glossary can be set up~~ for standardized items, such as adoption of resolutions and ordinances, award of contracts, claim denials, etc., ~~facilitates which then requires that you~~ input only of the specifics information, such as titles of resolutions and ordinances, project numbers, names of claimants, etc.

2.12.050 JURISDICTIONAL MATTERS.

~~To establish proof that jurisdictional requirements have been complied with, it is important that minutes contain the following:~~

- ~~1. Date, hour, and place of meeting.~~
- ~~2. Whether it is a regular, adjourned regular, or special meeting.~~
- ~~3. That proper notice has been given if it is a special meeting.~~

WMCA Chapter 2 – Meeting, Agenda, Minutes

Updated 2012

Page 29 of 37

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4. ~~The names of councilmembers in attendance. If a councilmember arrives late or departs before adjournment, the minutes should reflect the time of arrival and/or departure at that point in the minutes.~~

2.12.060 APPROVAL OF PREVIOUS MINUTES.

~~Minutes are placed on the agenda for approval, in order to comply with council rules of procedure.~~ Most cities/jurisdictions place minutes on the agenda for approval, in order to comply with council rules of procedure. Also, this lends further weight to the accuracy and completeness of the record. If copies of the minutes are provided to councilmembers in sufficient time prior to a city council meeting, it will avoid any necessity of reading of the minutes at the meeting by the clerk. When approved as written, or as amended by the governing body/council, the minutes are then official record.

2.12.070 RECORD OF ACTION TAKEN.

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Some city council/councils require "action only" minutes, where little, if any, narrative is included, and only motions and votes are shown in the record.

Other city council/councils require more extensive minutes, which may include not only detail of each agenda item listed, but discussion thereon. The city attorney is a good source if the city clerk/Clerk is uncertain as to how much detail to include.

In adoption of a resolution or an ordinance, the minutes should include its title; if it is not going to be read in full, the motion should include, and the minutes should show that full reading was waived as well as the vote thereon.

Since any written record is the best evidence of its contents, a written report or written communication presented at a city council/council meeting need only be referenced in the minutes with the name and title of the author, date of the report or communication, subject of the communication or title of report, and the action taken on the matter.

Oral reports or communications need only be referenced in the minutes by name of person, address (if desired), the subject matter, and the disposition made by the council.

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2.12.080 ORAL DEBATES, ARGUMENTS AND DISCUSSIONS.

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Some city clerk/Clerks, as a matter of course, make no reference in the minutes regarding councilmember's remarks, except where a councilmember specifically requests that his remarks be included in the minutes. Cities/Jurisdictions who follow this concept use as their basis the principle that minutes should only record the "actions" taken by the city council/council, and were never meant to include the reasons for taking such actions.

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Other ~~city clerk~~Clerks make reference in the minutes to councilmembers comments and reasons for voting for or against a motion. It is really a matter of ~~local individual city~~ preference. However, if a Councilmember requests that "the record show" his or her reason for voting, the ~~City Clerk~~Clerk is well advised to include such in the minutes, unless council policy precludes it.

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2.12.090 HEARINGS. Minutes of ~~city council~~council meetings with respect to hearings should include:

1. Jurisdictional facts. In order that there is sufficient proof that a hearing was held in compliance with the statute or ordinance governing same, the minutes should record the fact that required notice was given in accordance therewith, and that the hearing was held at the time and place specified in the notice.

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2. Evidence Produced at Hearing.

Written Evidence. Minutes should make appropriate reference to any written evidence in the form of statements, affidavits, reports, photographs, maps, correspondence, or other objects filed at the hearing, and included as part of the record.

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Oral Testimony. The record should show the name of the person speaking, his or her address, and whether testimony was for or against the hearing subject. Some ~~city clerk~~Clerks briefly refer to content of testimony in the minutes; however, there is no requirement that this be done.

3. Findings of Fact and Conclusions of Law~~council.~~ Usually the findings made by the ~~city council~~the governing body~~councils~~ in respect to public hearings are incorporated in the ordinance or resolution adopted as a result of the hearing. When this is done, the minutes need not record these findings in the body of the minutes, but should refer to the resolution or ordinance voted upon by the ~~city council~~council~~governing bodies.~~ Some ~~city council~~council~~governing bodies~~ prefer, however, to have their comments in regard to public hearing findings included in the record.

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~~3.~~

4. Arguments and Debates at Hearing. Once again, the inclusion of arguments and debates occurring at public hearings is a matter of personal preference of the ~~city clerk~~Clerk or ~~city council~~council~~governing body.~~ There is no requirement for inclusion in the record, but some ~~cities~~jurisdictions, as a matter of procedure, briefly note arguments or debates.

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2.12.100 ADJOURNMENT.

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In recording adjournment, the minutes should show whether it was adjourned to another time prior to the next regular meeting, or merely adjourned. Some ~~city council~~council governing bodies adjourn by motion. In other ~~cities~~jurisdictions, the ~~mayor~~presiding officer or presiding officer may declare the meeting adjourned.

2.12.110 SIGNING THE MINUTES.

Frequently the rules governing a ~~jurisdiction-city~~ will require that the minutes be signed by the ~~city clerk~~Clerk. (Some also require the ~~mayor~~presiding officer to sign.) Regardless of whether such a procedure is legally necessary, it is recommended that the ~~city clerk~~Clerk sign all minutes, as it adds authenticity to the minutes as public record and reflects the approval of the ~~city council~~govern bodycouncil.

2.12.120 USE OF ~~TAPE~~-RECORDINGS AND RETENTION.

There is no statutory requirement that ~~city council~~council meetings ~~have an audio or visual be tape-recorded~~ (quasi-judicial hearings, however, must ~~be audibly recorded~~have an audio be recording). Where a ~~city clerk~~Clerk makes an authorized ~~tape~~ recording of a ~~city council~~council meeting to facilitate the preparation of the minutes, any person has a right to inspect the ~~recording tape~~ and to listen to the ~~recording~~tape on equipment provided by the ~~jurisdiction-city~~. Any person also has the right to receive a copy of the ~~recording~~tape, by either purchasing a copy ~~from the city~~, or making a duplicate copy on his or her own equipment. This ~~does not~~ include the right to have a written transcript ~~made by the jurisdiction~~entity made by the city. ~~Larger jurisdictions provide audio/visual recording on the local cable network and/or their official website.~~

~~Recordings~~Tapes may be used to prepare written minutes. Due to the limited lifespan of ~~media types~~magnetic recordings, ~~they~~tapes do not serve as a permanent record of proceedings. ~~Any of the retention periods listed below may be chosen. Once chosen, it should be officially adopted.~~

Uniform retention of all recordings or transcriptions	6 years
--	--------------------

~~In accordance to the State Archives retention is as follows:~~

~~GS50-05A-13 Rev. 1 **Meetings – Governing/Executive/Advisory**
Records documenting all meetings of the local government agency's governing bodies,
executive management, and advisory bodies.
Includes:
• All meetings regulated by the Open Public Meetings Act (chapter 42.30 RCW), such as
regular and special meetings, public hearings, etc.;~~

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~~• All other meetings (including executive sessions regulated by RCW 42.30.110(2));~~

~~Includes, but is not limited to:~~

~~• Meeting notices (affidavits of mailing, posting and publication, etc.);~~

~~• Agendas, meeting/agenda packets (briefs, reference materials, etc.);~~

~~• Speaker sign up, written testimony;~~

~~• Audio/visual recordings and transcripts of proceedings;~~

~~• Minutes.~~

~~Includes indexes and other finding aids.~~

~~Excludes records covered by GS2011-173, GS2011-174, GS2011-175, and GS2011-176.~~

~~**Retain** for 6 years after end of calendar year *then* **Transfer** to Washington State~~

~~Archives for permanent retention.~~

2.12.130 PREPARATION OF THE MINUTES.

~~Minutes of each city council meeting should be prepared as soon as possible to be available for approval by the city council at its next meeting. This may not be practical or possible for a city clerk whose council meets each week. It is advisable that the minutes be done in rough draft prior to final preparation, and that the draft be checked against the agenda to be sure each item was included. If at all possible, a second person should review the draft for errors or something being left out.~~

2.12.140 SUMMARY—ANNOTATED AGENDA.

~~A summary of council actions is used to transmit information quickly to city staff and members of the press, in those cities/jurisdictions utilizing the summary. The summary may be presented in several different ways, however, there are two which are used by most cities/jurisdictions.~~

- ~~1. The first is the annotated agenda. This is done by marking the agenda face sheet with a notation as to the action taken by the city council. (i.e., Roll Call: All members present.)~~
- ~~2. The second is the brief or memo to staff which is basically a short paragraph on each item of the agenda, the action taken by the city council, and possible direction to staff for follow-up.~~

2.12.150 PURPOSE OF FORMAT.

~~Much can be learned from the minutes of other cities/jurisdictions. We learn how other cities/jurisdictions conduct business, the kinds of business they conduct, and what style is used for minutes.~~

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Minute formats should not change with every new municipal clerk Clerk or city secretary. While some cities jurisdictions have the same employee for twenty or more years, others change city secretaries frequently. If minute formats changed frequently, the lack of uniformity would lead to a lack of credibility. However, there are many times when a change (small or large) is warranted:

1. ~~_____ To Help Create/Improve an Indexing/Document Tracking System~~
2. ~~_____ To Make Minutes Easier To Read~~
3. ~~_____ To Make Minutes Easier To Understand~~
4. ~~_____ To More Accurately Record Business~~

2.12.160 FORMAT CHARACTERISTICS.

Below is a list of various characteristics for minute formats.

- ~~• _____ Number each minute page~~
- ~~• _____ Date each page~~
- ~~• _____ Use subtitles~~
- ~~• _____ Underline subtitles~~
- ~~• _____ Use columns~~
- ~~• _____ Include the numbers and titles of ordinances and resolutions~~
- ~~• _____ Indent text of minutes~~
- ~~• _____ Include agenda numbers~~
- ~~• _____ Minute book, volume or page number (some books come with pre-numbered pages)~~
- ~~• _____ Put city/town name on each page~~
- ~~• _____ Bold subtitles~~
- ~~• _____ Capitalize subtitles~~
- ~~• _____ Include file numbers that identify action~~

No set of minutes could contain all of the above without becoming cluttered and confusing. However, this list will help you evaluate your minute format.

2.12.170 PREPARATION OF MINUTES.

- ~~1. _____ Single space the text.~~
- ~~2. _____ Double space between each paragraph and triple space between each item in the order of business.~~
- ~~3. _____ Leave a left-hand margin of an inch and a half.~~

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- ~~4. Use block style.~~
- ~~5. Captions (subject and abbreviated action) may be typed in the left hand margin. This procedure will facilitate locating and identifying specific business matters at a later date.~~
- ~~6. Capitalize and center the heading designating the meeting, time, date, and place.~~
- ~~7.1. Be consistent when using capitalization of titles or proper names, organizations, districts, companies or proper nouns.~~
- ~~8.2. Reference any official document by its assigned number, such as: Ordinance 1234, Resolution 88-20, Zoning Permit 5678, and the like.~~
- ~~9. Item numbering, especially when linked with a minute index system, is used by many agencies as a useful aid in locating reports and other business items.~~
- ~~10. Identify names and addresses of businesses, applicants, property addresses—people, places and things.~~
- ~~11.3. _____ Attempt to acquire at the meeting the name, address, and affiliation, if applicable, of persons speaking before the body.~~
- ~~12.4. _____ Use past tense.~~
- ~~13.5. _____ Avoid genders in titles. Instead of using "councilman" or "councilwoman," use "councilmember" or "councilor."~~
- ~~14.6. _____ Refer to speakers by "Mr. or Ms. and "last name", not first name or nickname. If two members have same surname, use first name to distinguish between them.~~
- ~~15.7. _____ After the minutes are prepared in final draft, have someone other than yourself check them for spelling, grammar and other potential errors. Proofread.~~
- ~~16. Prior to the meeting, read the agenda and any supporting material to be more familiar with potential actions and to expedite minute preparation.~~
- ~~17. Take notes as the meeting proceeds, including the time each item begins.~~
- ~~18. If the meeting is being audio recorded, make an odometer reading notation of any statements or motions that are unclear. This will expedite preparation of the minutes if further review is necessary.~~
- ~~19.8. _____ Avoid the use of colorful adjectives and adverbs, such as: "He angrily stated", "hotly added" or "extolled the virtues" of his position!~~

~~2.12.180 MOTIONS:~~

~~There are various styles of reporting motions and votes. Roll call votes, unless otherwise instructed, should be called for in alphabetical order of the members' last names, with the presiding officer being called and recorded last. Votes should be recorded in the following manner:~~

~~AYES: Councilmembers Alpha, Beta, Ceta, Data, Eggo, Mover~~

~~NOES: None~~

~~WMCA Chapter 2 – Meeting, Agenda, Minutes~~

~~Updated 2012~~

~~Page 35 of 37~~

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~~If applicable, also list Councilmembers abstaining or absent. Council rules should address how abstentions should be treated.~~

~~A roll call vote may be requested by any member and is usually honored by the presiding officer. However, not all motions require a roll call vote.~~

~~Unanimous votes are recorded as a general consensus. These motions are usually non-controversial, non-budgetary, business matters.~~

~~Preparation of voting slips may be prepared in advance of each meeting for each item to expedite recording of votes.~~

2.12.190 CORRECTIONS TO MINUTES.

~~A municipal body has the right and duty to amend its minutes so as to make them speak the truth. Minutes do not "belong" to the city clerkClerk,-- the city clerkClerk is simply the submitter and custodian of the minutes. Do not become defensive when corrections to the draft minutes are offered. The art of hearing and writing actions develops with experience.~~

~~Amendments must be made promptly and either expressly or implied and authorized by its members, its attorney, or administrative staff.~~

~~All authorized corrections to the submitted draft minutes should be recorded as a business transaction made at the meeting at which they were approved, as amended. Following the meeting, the draft minutes should be corrected to include the amendment(s) prior to placement of the final, executed minutes in the minute book.~~

~~Minutes of a meeting are submitted for approval at the next meeting before they become the permanent record of the city. If at the meeting, a councilmember wishes to correct the minutes, a notation is marked in the margin opposite the correction which states:~~

~~Amended, see minutes of _____.~~

~~Do not white out, cross out, or erase. This is important, as the State Auditor requires this procedure.~~

2.12.200 EXCERPT FROM MINUTES.

~~Certified copies of minutes often are requested. The entire minutes of a meeting may be certified. If only a small section or one business matter is requested to be certified, the clerk Clerk may certify the appropriate excerpt from the minutes.~~

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2.12.210 PRESERVATION OF MINUTES. T

The RCW requires minutes of ~~city council~~councils to be a permanent record. Therefore, special attention, care and security measures should be implemented to protect the orderly and safe keeping of minutes.

2.12.220 DISTRIBUTION.

Copies of minutes should be provided to council members with the agenda on which they appear for approval. Copies distributed prior to approval should be clearly marked "draft." After approval by the council governing body, copies of the official minutes should be provided to each department and those organizations and members of the public requesting them.

2.12.230 INDEXING.

Although it is not legally required, it may be desirable to maintain a comprehensive general index of the official minutes.

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Chapter 3.04 Public Disclosure Records Act – Updated August 2012

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Sections:

[3.04.010 Generally.](#)

[3.04.0210 Purpose.](#)

[3.04.0320 Broad definitions of public records.](#)

[3.04.0430 Duties of public agencies \(state and local\).](#)

[3.04.0540 What records may be withheld.](#)

[3.04.0650 Procedures for access, remedies.](#)

[3.04.060 Resources](#)

3.04.010 PURPOSE.

During the 2005 regular session of the Washington Legislature, the legislature passed Substitute House Bill 1133 (Chapter 274, Laws of 2005), which recodified provisions relating to disclosure of public records (formerly codified in Chapter 42.17 RCW) into a new chapter RCW 42.56, effective July 1, 2006. RCW Chapter 42.56 is known as the Public Records Act. (RCW 42.56.020)

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RCW Section 42.56.030 states: "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."

Three of the subchapters of RCW 42.17 deal separately with the subjects of campaign financing, legislative lobbying (including lobbying by municipal and other governmental agencies), and personal financial disclosure by public officials and candidates. The fourth subchapter, modeled after the federal "Freedom of Information Act," deals with the public's right to inspect and/or copy public records. The act also contains administrative provisions, including the establishment of the Public Disclosure Commission as a state agency to administer and enforce the provisions of the act.

The substantive provisions of the act dealing with public records, namely, RCW 42.17.250 through 42.17.348, were meant to be mainly "self-enforcing," and there is relatively little administrative law on that subject. The following brief outline and

discussion is intended to supply a basic working knowledge of those "freedom of information" provisions, as amended through the 1997 State legislative session.

The act is to be liberally construed and conflicting provisions of other laws are superseded. (RCW 42.17.920)

Absent statutory provisions to the contrary, agencies may not release or withhold records based upon the identity of the requestor, and must rely solely on statutory exemptions and prohibitions for refusing to disclose public records. Secs. 1 and 4, Ch. 403, Laws of 1987; RCW 42.17.270

3.04.020 BROAD DEFINITION OF PUBLIC RECORDS.

"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. (RCW ~~42.17.020(36)~~, ~~42.56.010(3)~~) Non-paper records, including those stored on magnetic, electronic or optical media, are included within the definition of a public record.

"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. (RCW ~~42.17.020(42)~~, ~~42.56.010(4)~~)

"Metadata" means data used to describe other data. Metadata describes how, when, and by whom particular content was collected, how the content is formatted, and what the content is. Metadata is designed to provide a high level of categorization to aid in the storage, indexing, and retrieving of electronic records for public use. The metadata in electronic records establishes and preserves the authenticity of the record in addition to the content, and is what makes an electronic record useful and accessible. In 2010, the Washington State Supreme Court ruled that metadata can be a public record and is subject to disclosure under the State's Public Records Act.

3.04.030 DUTIES OF PUBLIC AGENCIES (STATE AND LOCAL).

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Each agency is required to 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 RCW Chapter 42.56. The name and contact information of the agency's public records officer shall be posted at the local agency's place of business, on its internet site, or included in its publications. (RCW 42.56.580)

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Agencies are required to establish rules of procedures for providing access to their public records. ~~Indexes should be developed and published~~ A current index of certain record series, as noted in RCW 42.56.070(3), should be maintained. A local agency need not maintain such an index if to do so would be unduly burdensome and if the agency complies with the stipulations of RCW 42.56.070(4). (RCW ~~42.17.250 - 260~~ 42.56.040, RCW 42.56.070(3) and (4) and RCW 42.56.100)

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Agencies must make their facilities available for ~~inspection or copying their of public records, or make copies upon request; they~~ Public Records must be made available for public inspection and copying during customary office hours ~~of the agency. Customary office hours must be posted on the agency's web site.~~ Agencies must honor requests by mail ~~for identifiable public records (unless exempt). They may charge for actual costs connected with copying records;~~ (RCW 42.56.080, RCW 42.56.090 and RCW 42.56.100)

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Agency charges for photocopies shall be in accordance with the actual per page cost established and published by the agency. ~~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. If the agency has not determined the actual per page cost for photocopies, the agency may not charge in excess of 15 cents per page plus the actual postage or delivery charge and the cost of any container or envelope used to mail the public records to the requestor, but they.~~ The agency may not charge for staff time spent in locating a record or for making a record available for copying. (RCW ~~42.17.260(7) & (8); RCW 42.17.270; RCW 42.17.290; and RCW 42.17.300~~ 42.56.070(7) and (8) and RCW 42.56.120)

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Agencies should adopt procedures to protect their records ~~from damage or disorganization and to~~ prevent ~~excessive~~ interference with ~~essential~~ agency functions. An agency may seek a court order to protect a particular record. (RCW ~~42.17.330~~ 42.56.100)

NOTE: Agencies that include a Court should recognize that General Court Rules may affect laws regarding public disclosure, fees, and other potential protection from the Public Records Act for court records.

3.04.040 WHAT RECORDS MAY BE WITHHELD.

There is no general "right of privacy" exemption from public disclosure, aside from specific statutory exemptions, from public disclosure. Furthermore, a right of privacy 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. Some records are exempt from public inspection, but only to the extent required to protect a right of personal privacy (as that term is defined in the Act) and/or a vital governmental interests. Exemptions do not apply if the exempt information in the requested record can be separated from the non-exempt information. An agency that refuses inspection of any public record—in whole or in part—shall include a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. Furthermore, when the reason for the exemption ceases, the records or files may lose their exemptions. (RCW 42.17.260; RCW 42.17.310(2); 42.56.050, RCW 42.56.070(1) and (2) and RCW 42.56.210)

The following RCW sections identify specific exemptions to disclosure of public records:

- RCW 42.56.230 Personal information
- RCW 42.56.240 Investigative, law enforcement and crime victims
- RCW 42.56.250 Employment and licensing
- RCW 42.56.260 Real estate appraisals
- RCW 42.56.270 Financial, commercial and proprietary information
- RCW 42.56.280 Preliminary drafts, notes, recommendations and intra-agency memorandums
- RCW 42.56.300 Archaeological sites
- RCW 42.56.310 Library records
- RCW 42.56.320 Educational information
- RCW 42.56.330 Public utilities and transportation
- RCW 42.56.335 Public utility districts and municipally owned electrical utilities -- Restrictions on access by law enforcement authorities
- RCW 42.56.340 Timeshare, condominium, etc. owner lists
- RCW 42.56.350 Health professionals
- RCW 42.56.360 Health care
- RCW 42.56.370 Domestic violence program, rape crisis center clients.
- RCW 42.56.380 Agriculture and livestock

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- [RCW 42.56.390](#) Emergency or transitional housing
- [RCW 42.56.400](#) Insurance and financial institutions
- [RCW 42.56.403](#) Property and casualty insurance statements of actuarial opinion
- [RCW 42.56.410](#) Employment security department records, certain purposes
- [RCW 42.56.420](#) Security
- [RCW 42.56.430](#) Fish and wildlife
- [RCW 42.56.440](#) Veterans' discharge papers
- [RCW 42.56.450](#) Check cashers and sellers licensing applications
- [RCW 42.56.460](#) Fireworks
- [RCW 42.56.470](#) Correctional industries workers
- [RCW 42.56.480](#) Inactive programs

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[Agencies must maintain a current list of laws—other than those listed in RCW Chapter 42.56—that the agency believes exempts or prohibits disclosure of specific information or records of the agency.](#)

[As a reference, Municipal Research and Services Center \(\[www.mrsc.org\]\(http://www.mrsc.org\)\) maintains a list of other State statutes and Federal Confidentiality Statutes and Rules in their publication titled "Public Records Act for Washington Cities, Counties and Special Purpose Districts" \(Appendix C\). An agency's failure to list an exemption shall not affect the efficacy of any exemption. \(RCW 42.56.070\(2\)\)](#)

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RCW ~~42.17.260(9)~~ [42.56.070\(9\)](#) forbids public agencies from providing [access to](#) lists of individuals "requested for commercial purposes" unless specifically authorized or directed by law; ~~however,~~ [Lists of professional licensees and applicants for professional licenses](#) are available to recognized professional associations or educational organizations. ~~For example, in a 1975 letter opinion the Attorney General concluded that a request by a business promotional organization for a list of individuals' names to enable that organization to distribute advertising materials had to be denied (Also see AGLO 1975 No. 15 & No. 38).~~

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- ~~1. Personal information in files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.~~
- ~~2. 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.~~
- ~~3. Certain taxpayer information.~~
- ~~4. Intelligence and investigative records compiled by investigative, law enforcement, and penology agencies.~~

5. Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies (other than the Public Disclosure Commission) if disclosure would be a danger to any person's life, safety, or property.
6. Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.
7. Certain real estate appraisals.
8. Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.
9. Preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended except that a specific record is not exempt when publicly cited by an agency in connection with any agency action.
10. Records identifying the location of archaeological sites.
11. Certain library information relating to the identity of a library user.
12. Financial information required in connection with prequalifying bidders on certain state contracts.
13. All applications for public employment including names, resumes, and other related information.
14. Residential addresses and telephone numbers of utility customers.
15. Residential addresses and telephone numbers of employees or volunteers of a public agency.
16. Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or a rape crisis center as defined in RCW 70.125.030.
17. 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.

These exemptions are qualified, however; they are generally inapplicable to the extent that disclosable information can be separated from nondisclosable information.

A law enforcement authority is prohibited from requesting disclosure of records belonging to an electric utility unless the authority provides a written statement that it suspects the person has committed a crime and the authority has a reasonable belief that the records could determine the truth of the suspicion. (RCW 42.17.314)

~~The residential, work and school addresses of victims of domestic violence or sexual assault may not be disclosed if the victim is a certified participant in the state confidentiality program. See Ch. 40.20 RCW. This provision does not in any way restrict the sharing or collection of information by state and local governmental agencies required for the daily administration of their duties. (Chapter 434-840 WAC)~~

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3.04.050 PROCEDURES FOR ACCESS, REMEDIES.

Agencies are required to make their records available "promptly" on request, and they must establish procedures for reviewing requests. Within five business days of receiving a public records request, the ~~city or town agency~~ 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 (unless the requester notifies the agency they cannot access the records through the internet);~~ 3) acknowledging that the ~~city agency~~ has received the request and ~~providing~~ a reasonable estimate of the time ~~the agency will~~ required to respond to the request; or ~~3.4~~ ~~denying~~ the public record request. If a request is denied, the ~~city agency~~ must ~~give provide~~ a written statement of the specific reasons for denying the request. (RCW ~~42.17.320~~ ~~42.56.520~~)

~~Agencies may not deny a request for identifiable public records solely on the basis that the request is overbroad. In acknowledging receipt of a public records request that is unclear, an agency may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the agency need not respond further. Identifiable public records that are part of a large set of requested records may be made available on a partial or installment basis as they are assembled or made ready for inspection or disclosure. Payment for installments must be made within 30 days of notification of availability in order for further installments to be provided. If the requestor fails to pay the deposit, inspect a set of records, and/or pay for an installment within 30 days of notification, the Public Records Officer may stop searching for the remaining records and close the request. (RCW 42.56.080, RCW 42.56.120, and RCW 42.56.520)~~

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~~Absent statutory provisions to the contrary, agencies may not release or withhold records based upon the identity of the requestor. Requesters are not required to provide information as to the purpose for their request except to establish whether inspection and copying would violate RCW 42.56.070(9) or any other statute that exempts or prohibits disclosure of specific information or records to certain persons. (RCW 42.56.080)~~

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~~If a public record request is made at a time when such record exists but the record is scheduled for destruction in the near future, the agency shall retain possession of the~~

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record, and may not destroy or erase the record until the request is resolved. (RCW 42.56.100).

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A person whose request for inspection or copying is wrongly denied, or for whom the agency has not made a reasonable estimate of the time the agency requires to respond, can sue in his or her own behalf. The court may order the record to be produced. The burden of proof is generally on the agency to establish that their refusal is in accordance with a statute that exempts or prohibits disclosure and/or that the time estimate provided is reasonable ~~justify its decision, on the basis of a specific statutory exemption from disclosure. The successful citizen~~ Any person who prevails against an agency in the courts is ~~then~~ entitled to be reimbursed for all costs ~~of the suit,~~ including a reasonable attorney's fees incurred in connection with such legal action. ~~and may be~~ In addition, it shall be within the discretion of the court to awarded an amount ~~not less than five dollars and~~ not to exceed one hundred dollars for each day the request was denied. (RCW 42.56.550)

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3.04.060 RESOURCES

- Municipal Research and Services Center of Washington (MRSC): www.mrsc.org
- Washington Association of Public Records Officers: www.wa-pro.org
- Washington State Attorney General's Office: www.atg.wa.gov

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Chapter 3.08 Records Management – Updated August 2012

Sections:

- 3.08.010 Generally.
- ~~3.08.020 Object of program.~~
- 3.08.020 Public records defined.
- 3.08.030 Public records responsibilities and legal requirements.
- 3.08.040 Records management defined.
- 3.08.050 Records as public property.
- 3.08.060 Custody of public records.
- 3.08.070 Authority to adopt ~~general~~ records retention schedules.
- 3.08.080 Local Records Committee.
- 3.08.090 Records retention schedules identified.
- ~~3.08.090 Records retention schedule defined.~~
- 3.08.100 Basic elements of a records retention schedule.

- 3.08.110 Formulation of internal working schedules.
- 3.08.120 ~~Location of~~ Primary and secondary copies.
- 3.08.130 ~~Use of~~ microfilm and optical imaging ~~copies~~.
- [3.08.140 Considerations regarding records on electronic and other media.](#)
- [3.08.150 Authority to transfer records to the State Archives.](#)
- 3.08.160 Disposition of public records.
- 3.08.170 Methods of records destruction.
- ~~3.08.200 Retention period.~~
- ~~3.08.210 Disposition remarks.~~
- ~~3.08.220 General records retention schedules.~~
- ~~3.08.180 Archival value.~~
- 3.08.180 Disposition of records series not covered by ~~a the general~~ retention schedule.
- [3.08.190 Personally Identifiable Information \(PII\)](#)
- ~~3.08.210 Reduction of general records retention schedule.~~
- 3.08.200 ~~The division of~~ [Services of Washington State Archives and records management.](#)
- ~~3.08.210 Regional branches of the State Archives.~~
- [3.08.210 Records management resources.](#)
- ~~3.08.190 Distribution of schedule.~~
- ~~3.08.290 Records in electronic format.~~

3.08.010 GENERALLY.

Public records are the source documents of local government. They are the property of the state and must be preserved, stored, transferred, destroyed or disposed of only in accordance with guidelines established by the State Archivist. [The purpose of a records management program is to minimize the physical volume of an agency's records, streamline records retrieval, improve the integrity of files, reduce risk, and cut costs.](#) Improper [or premature](#) disposal of ~~obsolete~~ records may create unnecessary liability for a city or town. [In addition to legal requirements for managing records,](#) the [continued retention of obsolete records—those that have met their retention period—](#)is an unnecessary expense and a management concern because such material uses up valuable working space, ~~and~~ hinders the use of active records by creating crowded and chaotic files, [and increases risk exposure relating to public records requests and litigation.](#) [On-going storage of storing](#) obsolete records can [also](#) create [added](#) fire and safety hazards [and impact IT infrastructure.](#)

3.08.020 PUBLIC RECORDS DEFINED.

The term "public records" applies to any paper, correspondence, completed form, bound ~~volume record book, photograph, sound recording~~, film, machine readable material, map, drawing, compact disc or other document, regardless of physical form or ~~physical~~ characteristics, that has been created or received by a state or local government agency during the course in connection with the transaction of public business. Electronic Non-paper records, such as those stored on magnetic, electronic or optical media, such as including e-mail messages and database records, are included within theis definition of public records. (RCW 40.14.010 and WAC 434-610-020)

3.08.030 OBJECT OF PROGRAM PUBLIC RECORDS RESPONSIBILITIES AND LEGAL REQUIREMENTS.

The disposition of public records carries special statutory requirements that need to be understood by public officials and employees. In most states, statutes regulate the retention and disposition of government records. In Washington State, ~~the Public Records Act~~, chapter 40.14 of the Revised Code of Washington (RCW) is the primary statement of public policy on the management, preservation and destruction of public government records, and is as implemented by the Washington Administrative Code (WAC), chapters 434-600 to 677. All state and local government agencies are responsible for managing information—in any form—that documents its policies, operations or business transactions. These responsibilities include:

- Retain necessary records
- Dispose of obsolete records
- Transfer historical records to the Regional Archives
- Protect essential records
- Maintain accessibility and provide public access

3.08.040 RECORDS MANAGEMENT DEFINED.

The term "Records Management" ~~is a general term which~~ encompasses a number of activities that contribute to the common goal of making records keeping easier being compliant with public records laws, and making it easier, more efficient and less costly to retain records. These activities include, but are not restricted to: records retention scheduling, ~~non-current records~~ storage of inactive records, files management, forms and reports management, micrographics/optical imaging, and essential records protection and disaster preparedness ~~reports management, and public disclosure~~. Any or all of these activities may be incorporated into a specific program to meet the needs of a particular agency. Records management is a commonly accepted business practice worldwide, both in the public and private sectors, and supports the core functions of agency business.

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3.08.050 RECORDS AS PUBLIC PROPERTY.

All public records shall be, and remain, the property of the [state and/or local](#) agency. Outgoing officials and employees must pass such records on to their successors. Furthermore, public records shall be preserved, stored, transferred, destroyed and otherwise managed according to the provisions of chapter 40.14 RCW unless otherwise provided by law. (WAC 434-615-010)

3.08.060 CUSTODY OF PUBLIC RECORDS.

Public records must remain in the [legal](#) custody of the agency in which they were originally received or created. They shall not be placed in the [legal or physical](#) custody of any other person or agency, public or private, or released to individuals, except for disposition pursuant to law or ~~as-unless~~ otherwise [expressly](#) provided by law. [If an agency considers use of a cloud or third party vendor storage solution, ownership of the records needs to be very clear. Records should not be out of an agency's control no matter whose "custody" they are in.](#) (WAC 434-615-020) [Section 3.08.150 of this chapter outlines an](#) ~~Note the~~ agency's authority to transfer records to the State Archives ~~as set out in 3.08.130 below.~~

3.08.070 AUTHORITY TO ADOPT ~~GENERAL~~ RECORDS RETENTION SCHEDULES.

The Washington State Local Records Committee may approve and issue records retention schedules, which give authority to local agencies for the disposition of specific types of [commonly held public](#) records. ~~General~~ Records retention schedules provide this authority on a recurring basis until such time as they might be amended or revised by the committee. (RCW 40.14.050 and .070)

3.08.080 LOCAL RECORDS COMMITTEE.

The Washington State Local Records Committee includes the State Archivist and representatives from the offices of the State Auditor and State Attorney General. This committee has the authority to review and approve the disposition of all local government records. (RCW 40.14.070)

3.08.090 RECORDS RETENTION SCHEDULES ~~IDENTIFIED~~.

A records retention schedule lists specific types of records maintained by an agency and the period of time that each type should be retained. Records that have no further legal [or regulatory requirements, and no](#) administrative, [operational](#) or auditing use, [may be disposed of once the specified retention period has been met](#) ~~by creating a calendar~~

1. **Records Series Title and Description:** Each type of record listed on a records retention schedule is a records series. A records series ~~can be defined as a group of records, performing a particular function, which is used as a unit, filed as a unit~~ may consist of a single type of form or a number of different types of documents that are filed together to document a specific function, ~~and can may be transferred or~~ disposed of as a unit.

2. **Retention Period and Disposition Action:** Each records series listed on a records retention schedule has a corresponding retention period. This is the minimum amount of time that records in that particular series must be retained by the agency to meet its legal obligations and administrative needs. [Direction for proper disposition of the records series is also provided \(i.e. destroy, retain permanently, transfer to State Archives\).](#)

3. **Disposition Authority Number (DAN):** ~~These are the control numbers systematically assigned to records series or records retention schedules when they are approved by the Local Records Committee. A DAN number serves as reference to the authority provided by the Records Retention Schedule for disposition of a record.~~

4. **Disposition Remarks and/or Designation:** "Remarks" are used ~~to relay~~ for information that clarifies the provisions of a retention period, cites special legal requirements, or ~~provides instruction on designations or~~ records series ~~that having~~ archival value ~~or are designated as "Essential records which should be set aside for appraisal and transfer to the nearest branch of the state archives."~~

5. **Archival or Potentially Archival Records**value: ~~Each A~~ records series that ~~the State determines to have~~ ~~has a permanent enduring legal or~~ historical ~~or research~~ value ~~beyond its assigned retention period~~ will bear the designation of "Archival" or "Archival—Appraisal Required" or "Potential Archival Value" ~~and must not be destroyed. Upon expiration of the retention period, all~~ records from a series designated "Archival" must be transferred to the branch of the State Archives in your region ~~or to the State's Digital Archives, or preserved according to archival best practices until such time as they are transferred to the State Archives/Digital Archives. Upon expiration of the retention period, All~~ records designated "Archival – Appraisal Required" or "Potential Archival Value" must be set aside for appraisal by State Archives staff for possible transfer to the regional branch of the State Archives ~~or to the Digital Archives upon expiration of their retention periods. (WAC 434-615-030)~~

6. **Essential Records:** ~~Records series with this designation are those an agency would need in order to maintain or resume its core functions following a disaster. Security backups of these public records should be created and may be deposited with~~

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Washington State Archives in accordance with chapter 40.10 RCW. Copies of master indexes, lists, registers, tracking systems, databases and other finding aids should also be transferred with the records.

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7. **Records Classification:** For the purpose of determining retention periods, public records are divided into two classifications: OPR and OFM. Whichever Regardless of the classification the various a records series held by a public agency may fall under, the length of time they are it is retained must be accounted for on either a an approved records retention schedule or a general records retention schedule. (RCW 40.14.010)

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a. **Official Public Records (OPR):** This classification applies to any records series that serves as legal or official proof of an action, transaction or agreement. OPR records include all original vouchers, receipts and other documents necessary to isolate and prove the validity of transactions relating to the receipt, use and disposition of all public property and public income sources; all original contracts and agreements to which the agency is a party; all original fidelity, surety and performance bonds; all original claims filed against the agency; all records or documents required by law to be filed with or kept by the agency; and all other records determined by the Local Records Committee to be Official Public Records. Unless otherwise provided by law, the minimum legal retention period for records classified as Official Public Records (OPR) is 6 years after completion of the action they document.

b. **Office Files and Memoranda (OFM):** The classification of "Office Files and Memoranda" applies to records not includes such records as correspondence, exhibits, drawings, maps, completed forms, or documents not defined or classified as Official Public Records; all secondary duplicate copies of Official Public Records; all documents and reports made for the internal administration of an agency but not required by law to be filed with or kept by that agency; and all other records determined by the Local Records Committee to be Office Files and Memoranda.

(RCW 40.14.010)

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3.08.110 FORMULATION OF INTERNAL WORKING SCHEDULES.

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A general The State Records Retention Schedules may be applied directly to the disposition of the records series listed. However, it may also list records series that a particular agency does not have. Therefore, an "internal working schedule," which is restricted to listings that relate specifically to the agency's holdings, may be abstracted from the general records retention schedules. 3.08.200 DISTRIBUTION OF SCHEDULE.

The internal working schedule ~~should~~may be broken down into functional units and distributed to those persons who will be directly responsible for the disposition of various records series.

3.08.120 ~~LOCATION OF~~ PRIMARY AND SECONDARY COPIES.

The ~~original~~official record copy—~~or also known as the~~ primary copy—of a record (whether created or received by the agency), especially an Official Public Record (OPR), must be retained in accordance with a current, approved records retention schedule, and should usually be retained longer than secondary copies. ~~Therefore~~ The official record holder of a particular record should be identified, and will have primary retention responsibility. Secondary copies (or duplicates) of the agency's primary records may be used for specific legal, fiscal, or administrative purposes. These secondary copies exist for convenience of reference, or for informational purposes, and may be discarded when no longer needed for agency business in accordance with the applicable designation for secondary copies in the State Records Retention Schedule.

3.08.130 USE OF MICROFILM AND OPTICAL IMAGING.

~~The~~ Complete, clear, and authenticated microfilm and optical imaging copies of public records that meet state standards have the same legal status as the paper originals. (*RCW 40.20.020, 5.46.010, 36.23.065 and 36.23.067*)

WAC 434-660 through WAC 434-677 contain standards for the accuracy and durability of electronic imaging systems, preservation of electronic public records, and microfilm use of security microfilm for the protection of records identified as "Essential records" or records with long-term retention requirements. In ~~most cases general~~, the use of microfilm or optical imaging ~~is~~may be justified when a records series is closed, is extremely voluminous, has a long retention period (over 10 to 15 years or more), or has a high rate of reference. The use of Microfilm may also affect the retention periods of certain records series because microfilm or optical imaging copies that meet State standards may be retained in addition to or as substitutes for the paper copies.*

Microfilm is recommended by the Washington State Archives as the best method of protection and backup for permanent or Essential records. If documents have been microfilmed, they can be viewed on a microfilm reader, paper copies can be re-created in the event the originals are destroyed in a disaster, and digital copies can be created from microfilm for convenience and ease of use. RCW 40.10.

For information on State standards for microfilm and imaging, the following resources are available from a Regional Archivist:

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- [1998 edition of "Washington State Standards for the Production and Use of Microfilm"](#)
- ["Requirements for the Destruction of Non-Archival Paper Records after Imaging"](#)

*NOTE: Records (paper or other media) designated as having Archival value may not be destroyed. Contact the Regional Archivist for appraisal and/or transfer to Washington State Archives/Digital Archives for preservation.

See also the 1998 edition of "Washington State Standards for the Production and Use of Microfilm" available from your Regional Archivist.

[3.08.140 CONSIDERATIONS REGARDING RECORDS ON ELECTRONIC AND OTHER MEDIA.](#)

1. Identifying records other than paper: As noted in Section 3.08.020 herein, the term "public records" applies regardless of physical form or characteristics. It can include records stored on magnetic, electronic and optical media, including:

- [Computer systems, floppy disks, recording tape, CDs, DVDs.](#)
- [Audio/video recordings, multi-media or slide presentations.](#)
- [Unstructured data, such as Word and Excel files, photographs, e-mails.](#)
- [Structured data such as information in databases and imaging systems.](#)
- [On-line content, including websites and social media postings \(Twitter, Facebook, instant messaging, YouTube videos, etc.\)](#)
- [Information stored via third party vendors or in the cloud.](#)
- [Text messages.](#)
- [Voice mail systems, particularly VoIP telephone systems, can generate digitized telecommunications that can be stored, managed as a digital object, and can be retrieved as a record.](#)
- [Content stored in legacy systems. "Legacy system" refers to computers and related hardware, software, and data that may or may not remain in use after the organization has installed newer technologies and systems.](#)

2. Retention of records in non-paper formats: The retention period of a record is based on the content of the document—not the format. Information related to a particular records series may exist in one or multiple formats. Retention requirements depend on which records series the content fits into—not whether it is a piece of paper, an e-mail, photograph or CD, etc. ***WAC 434-662-040 states that electronic records must be retained in electronic format and remain usable, searchable, retrievable and authentic for the length of the designated retention period.*** Printing and retaining a hard copy is not a substitute for the electronic version unless approved by the applicable records committee. Electronic records are very prolific

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and lend themselves to a redundancy within an organization. Compliance with good records management policies can eliminate much of this duplication.

Monitoring of records with long-term retention periods that exist in a non-paper format may be required as they may need to be migrated periodically to a new format in order to ensure continued integrity and accessibility of data for the duration of the retention period. Electronic records with long-term retention that only exist electronically (i.e. within a financial software system or as a PDF file) may need output to microfilm to serve as emergency/disaster backup protection.

3. Metadata: "Metadata" means data used to describe other data and is what makes an electronic record useful and accessible. Metadata describes how, when, and by whom particular content was collected, how the content is formatted, and what the content is. Metadata is designed to provide a high level of categorization to aid in the storage, indexing, and retrieving of electronic records for public use. The electronic version of a record contains metadata, which establishes and preserves the authenticity of the record in addition to the content. In 2010, the Washington State Supreme Court ruled that metadata can be a public record and is subject to disclosure under the State's Public Records Act. Therefore, metadata must be retained along with its corresponding electronic record for the length of the designated retention period.

The Regional Archivists and Electronic Records Management Consultants of the ~~Office of the Secretary of State~~ Division of Archives and Records Management serve as a ~~resource of for~~ current information about management of electronic records and technologies.

3.08.150 AUTHORITY TO TRANSFER RECORDS TO THE STATE ARCHIVES.

Instead of being retained permanently by the agency, records (paper and other media) designated in a State Records Retention Schedule as having archival ~~or historical~~-value may be officially transferred to the State Archives or one of its regional branches upon expiration of the retention period. Arrangements must also be made for transfer of any electronic versions of archival records to the State's Digital Archives. It is illegal to transfer public records to private persons/organizations or to depositories not designated by the State Archivist. (*RCW 40.14.070 and WAC 434-615-020 and 434-615-030*)

3.08.160 DISPOSITION OF PUBLIC RECORDS.

Public records ([paper or other media](#)) may be destroyed or transferred only in accordance with the instructions and approval of the State of Washington's Local Records Committee, [which means according to the applicable State Records Retention Schedule or other specific approval.](#) (RCW 40.14.070) [During any destruction process, an agency must be aware of legal holds that have been put in place by the agency. An agency may initiate a legal hold, also known as a preservation order, freeze notice or hold notice, if the agency feels litigation is reasonably anticipated. It is a notice to immediately preserve all forms of information relevant to that litigation and it suspends the normal disposition of records. Any records affiliated with such a legal hold should not be destroyed. In addition, records that may be responsive to a public records request that is open at the time of disposition may not be destroyed.](#)

3.08.170 METHODS OF RECORDS DESTRUCTION.

Paper records: The primary objective of destruction is to reduce [those](#) obsolete records ~~which are~~ not eligible for transfer to the custody of the State Archives to an illegible condition. Burning, pulping and shredding are considered to be the most effective methods. It is recommended that a summary log and certificates or affidavits recording the date and details of destruction be kept for future reference.

You may use either of the two methods described below to recycle obsolete [paper](#) records.

1. [Pulping or shredding:](#) Records eligible for destruction may be taken to a recycling facility ([or via an on-site service](#)), where their pulping or shredding should be witnessed. WAC 434-640-020
2. [Secure recycling:](#) Records eligible for destruction may be released to a recycling agency under the following conditions:
 - a. The prompt destruction of the records must be ensured. Ultimate responsibility shall continue to be that of the office of record.
 - b. The recycling agency shall provide a performance bond in the penal sum of \$100,000.00 or the face value of records being destroyed, whichever is less.
 - c. Records shall not be left unattended or unprotected while awaiting destruction.
 - d. The office of record shall obtain and preserve evidence of the destruction of such records in the form of a certificate from the recycling agency. A letter of agreement or contract should be in effect between the agency and the recycler including these conditions.

WAC 434-640-030

Other records: If the paper copy of a record has been destroyed, a decision needs to be made whether to retain or destroy any copies that exist in other media formats; otherwise, the agency is just as liable for producing that record in response to a public records request or litigation. Likewise, retention and disposition decisions must be made about records that exist only in non-paper formats, including "born digital" records, which are materials that originated in a digital form (e-mail, digital photographs, web-based applications, etc.).

~~3.08.180 GENERAL RECORDS RETENTION SCHEDULES.~~ A general records retention schedule fulfills all of the functions of a records retention schedule approved for an individual agency by the local records committee. However, a general schedule such as the "Local Government General Records Retention Schedule and Records Management Manual," is issued by the local records committee to serve as the retention standard and disposition authority for records series commonly held by particular types of local government agencies. Disposition authority for records not covered by a general records retention schedule must be obtained separately through local records committee approval of an individual records retention schedule using form SSA-224 or 24a. A copy of the Manual and the retention schedules for local governments are located on the Municipal Research (MRSC) Web site at <http://www.mrsc.org/recordsmanual/reclist.htm>.

3.08.180 DISPOSITION OF RECORDS SERIES NOT COVERED BY THE GENERAL A RETENTION SCHEDULE.

Those records not covered by the general records retention schedule should be entered on an SSA-24 "Public Records Retention Schedule and Destruction Authorization" form to be submitted for local records committee approval. These forms can be obtained from the nearest branch of the state archives. Once approved, these individual records retention schedules should be incorporated in the internal working schedule. An agency that has a specific record they feel is not covered by an approved State Records Retention Schedule should consult with the Regional Archivist. Agencies may also submit a request to have a particular retention period reviewed. Should the Local Records Committee concur that a new Disposition Authority Number or retention period is warranted, the applicable State Records Retention Schedule will be revised accordingly.

~~3.08.220 REDUCTION OF GENERAL RECORDS RETENTION SCHEDULE RETENTION PERIODS.~~ Generally, retention periods for official public records are fixed by law and cannot be reduced. The retention periods for office files and memoranda are often more flexible. If an agency wishes to have retention periods for OFM records series reduced, it should prepare an SSA-24 and submit it to the local records committee for approval.

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3.08.190 PERSONALLY IDENTIFIABLE INFORMATION (PII).

Privacy laws such as HIPPA and FACTA regulate how organizations—public or private—protect records that contain Personally Identifiable Information. When personal information is provided to organizations, the intention is that it will be collected and used only for its intended purpose. Appropriate measures should be taken to secure records (paper and electronic) that contain personal information, financial data, and health information, and procedures should mandate the proper disposal of sensitive records.

3.08.200 ~~THE DIVISION SERVICES OF WASHINGTON STATE ARCHIVES AND RECORDS MANAGEMENT.~~

The Washington State Archives is a division of the Office of the Secretary of State. The Division of Archives and Records Management operates under the provisions of chapter 40.14 RCW, the Public Records Act, which also regulates the disposition of all records generated by state agencies and local government jurisdictions. The Division provides state and local agencies with technical assistance in complying with legal requirements and developing systems for managing their records. Services include standards, technical information, education and training, and consultation on micrographics, filing and information retrieval, protection of essential records operations, archival access to public records, electronic records management, disaster preparedness and response, and the local government records grant program recording media standards.

In addition, the Division provides certain records management services, some on a charge-back basis. These include source document microfilming and digitization, film processing and duplication, essential records microfilm storage, and restoration and conservation of endangered historical documents.

The Division is also responsible for identifying, storing, preserving and providing public access to state and local government records which that have a continuing an enduring legal or historical or research value beyond their usefulness to the agencies that created them ("Archival" records). Such records must be transferred to the division's nearest regional branch rather than being destroyed.

3.08.210 REGIONAL BRANCHES OF THE STATE ARCHIVES. The Division of Archives and Records Management has developed a system of regional branches to make its services more directly available to agencies and citizens throughout the state. You may contact the Regional Archivist at the nearest branch listed in Chapter Section 9.16.040 herein with any questions you may have. Agencies should ask to be included on any

[distribution list utilized by the Division to keep local agencies informed of changes to the approved records retention schedules and other legislative activity.](#)

[3.08.210 RECORDS MANAGEMENT RESOURCES.](#)

- [Washington State Archives: www.sos.wa.gov/archives/recordsmanagement](http://www.sos.wa.gov/archives/recordsmanagement)
- [Washington State Archives Imaging and Preservation Services: http://www.sos.wa.gov/archives/imaging.aspx](http://www.sos.wa.gov/archives/imaging.aspx)
- [Municipal Research and Services Center of Washington \(MRSC\): www.mrsc.org](http://www.mrsc.org)
- [ARMA International \(Association of Records Managers and Administrators\), which also has local chapters: www.arma.org](http://www.arma.org)
- [NAGARA \(National Association of Government Archives and Records Administrators\): www.nagara.org](http://www.nagara.org)
- [AIIM \(Association for Information and Image Management\): www.aiim.org](http://www.aiim.org)

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Chapter 3.10 Municipal and Legislative History – Updated August 2012

Sections:

- ~~3.10.010 – Generally Municipal History.~~
- ~~3.10.020 – Legislative History Index.~~

~~3.10.010 – GENERALLY MUNICIPAL HISTORY.~~

Each City Clerk should develop a City Clerk Handbook for the municipality. In addition to policies and procedures, it is appropriate to include a short history of the city. Some cities have expanded upon this idea and actually have a document which that describes the city's history from a municipal perspective. A complete city history could include the following information:

- ~~• Date of incorporation~~
- ~~• City classification (and any changes):~~
 - ~~First class cities~~
 - ~~Second class cities~~
 - ~~Towns~~
 - ~~Optional municipal code city ("code cities")~~
- ~~• Class of city/Form of government (and any changes):~~
 - ~~Mayor council~~
 - ~~Council manager~~
 - ~~Commission~~
- ~~• Location(s) of City Hall~~
- ~~• Mayors and/or City Managers/Administrators~~
- ~~• City Councilmembers~~
- ~~• City Clerks~~

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• City Attorneys

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• Police and Fire Chiefs

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• Members of Boards and Commissions

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3.10.020 LEGISLATIVE HISTORY INDEX:

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It is very helpful to have maintain an index of City Council actions indexed in some way, particularly if Council minutes are not on a computer program which that allows word searches (see Section 2.12.030 herein). An index allows staff or citizens to search for a particular issue and retrieve all related legislation and documentation of City Council actions. Dividing actions into Developing a list of topics under which each action can be categorized can assist in this research.

A legislative history index should show may include:

• Applicable topic heading

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• The date of the action taken by the City Council

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• The number of the legislation (i.e. ordinance or resolution number)

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• A brief description of the action

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• The volume and page in the minutes book where this information can be found*

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*Depending on the technology used, if any, to store digital copies of minutes, ordinances, resolutions, etc., a link may be included within the index to provide direct access to the applicable document(s).

While automation continues to simplify the process of researching such information, but continuing to index legislative actions can be preserve a valuable research aid.

Chapter 3.18 Emergency Preparedness – Updated August 2012

Sections:

- 3.18.010 ~~Precautions~~Prevention.
- 3.18.020 ~~Plan ahead~~Preparedness.
- 3.18.030 ~~Initial recovery procedures~~Response.
- 3.18.040 Recovery~~precautions~~.
- 3.18.050 ~~Post-recovery~~.
- 3.18.060 ~~Specific recovery information~~Resources.

3.18.010 PRECAUTIONSPREVENTION.

Protecting records—before they suffer the effects of an emergency—is a vital component of your records management program. A records emergency is an event that results in the destruction, loss or inaccessibility of an agency’s records or data. Steps can be taken to reduce the scope of an emergency or prevent one from happening at all. There are costs associated with protecting records, but they are usually far less than the cost of recovering records damaged during an emergency. Response and recovery is expensive. It often turns into response and replacement.

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Identify Your Essential Records

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RCW 40.10 directs local governments to identify and protect their essential records and provides direction for doing so as necessary to provide continuity of local government under emergency conditions. Chapter 38.52 RCW directs responsibility for development of Emergency Management Plans by local agencies in accordance with the State Comprehensive Emergency Management Plan and program.

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Essential records protection is the key to records disaster prevention. An organization must first identify their essential records based on agency functions and those record series designated as “Essential records” in the applicable State Records Retention Schedule(s). Generally, the records will fall into one of five broad categories of essential records:

• *Emergency operating records:* Emergency plans and directives, orders of succession, delegations of authority, joint powers agreements, mutual aid agreements, staffing assignments, infrastructure and utility plans, maps and building plans, emergency contact information.

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• *Records that protect the health, safety, property and rights of residents:* Land records, deeds and easements, marriage and birth records, active court proceedings, education and military service records, voting records, professional licenses.

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• Legal and financial records, regardless of media, that are critical to resume or continue operations and protect the legal and financial rights or entitlements of the organization. Examples include ordinances, resolutions, minutes, policies and procedures, accounts receivable records, contract and acquisition files, current personnel files, payroll and retirement records, insurance records, parole records, equipment titles/records, current month's utility billing records, and property management and inventory records. (Non-records may include timesheet forms, blank checks, petty cash, and any cash receivables.)

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• Records that would require massive resources if they had to be reconstructed, such as geographic information systems (GIS) data and tax records.

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• Records that are necessary to restore order and community include historical documents, photographs and identity records.

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If you are still unsure as to what level of protection is needed, consider:

• What would the consequences be if these records were lost? What would be the cost to reconstruct these records in terms of time, labor and money? How fast would the records be needed before there was serious damage to the agency's operations?

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• Can these records be easily replaced from another source, agency or office? Are these records already duplicated in another form? Is the information in an electronic database sufficient to substitute for the original record?

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Protect Your Essential Records

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The preferred method of protection for essential records will be based on considerations such as media type, frequency of use, volume, retention requirements, available resources, environmental conditions, security requirements, and historical significance, and the methods are not mutually exclusive.

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Duplication and off-site storage is the best form of protection for essential records. This can include paper duplication, microfilm (that meets State standards), and/or electronic back-ups, all of which have advantages and disadvantages. Paper duplication works best when the volume is minimal or the update cycle is frequent. Microfilm or computer output microfiche is commonly used for records that are voluminous, change infrequently over time, and have long term or permanent value. Depending on the type of emergency, duplicate records may need to be stored 100 miles or more from the originals in order to ensure survival even during a major disaster. NOTE: The Washington State Archives provides security microfilm storage of essential records at no cost to local agencies.

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Legally, electronic records are not different than records stored on paper or microfilm. Disaster prevention of electronic records begins with system design, and protection is through various methods of data backup and duplication. Use of electronic media may be the best form of duplication when the essential record is already in electronic form, volume makes a paper copy impractical, and the information is frequently updated or superseded. It is also more appropriate for records with shorter retention periods (10 to 15 years or less) because of the many hardware and software changes that electronic media will be subjected to during that time. Whenever a new electronic records system is being designed, consider whether the record being created is an essential record and plan for its duplication as appropriate. NOTE: Scanning and digitization of paper records (use of imaging systems) creates both a duplicate copy and allows for convenient access to records. It is usually best for records that are closed (will have minimal or no changes) and have long-term retention requirements plus high retrieval needs. Microfilm can be produced from digitized images, to provide the best of both worlds.

Rescuing damaged hardware, software and data is often impossible. Records Managers and IT staff need to work together. They should know where back-up tapes are and verify that the data on those tapes is good. IT should do integrity checks of the system and back-ups.

Depending on a record's value and risk consequences, other alternatives may provide an acceptable level of protection for some records, including:

Protective on-site storage is the use of special fire-resistant and environmentally-controlled records protection equipment (cabinets) and storage space (vault or other room) designed for the protection of the media being stored. There are 10 simple and inexpensive ways to protect essential records being stored in your office:

1. Keep essential records out of active work areas.
2. Locate essential records on the office floor plan.
3. Separate essential records from other records.
4. Keep essential records close together.
5. Locate essential records near an exit.
6. Keep essential records off desks.
7. Keep essential records off the floor.
8. Keep essential records in metal cabinets.
9. Keep essential records out of bottom drawers.
10. Use fire and water-resistant file drawer labels.

Each city clerk should establish an ongoing essential records program in accordance with the requirements of RCW 40.10. Photocopy, microfilm or scan all essential

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documents and moved them off-site, or take alternative protective actions as recommended in the Washington State Essential Records Manual. In accordance with the Essential Records Program as defined in RCW 40.10, security microfilm should be sent to the Washington State Essential Records Facility operated by the Division of Archives and Records Management. If this is not possible, security copies can be stored in fire-resistant cabinets, fireproof vault, or fireproof room.

Evacuation planning may be required for some essential records that change frequently, making them difficult or impossible to duplicate and/or store off-site. These records should be identified and made ready for evacuation if sufficient warning of an emergency permits. Identify these records in advance. Consider the use of red labels on file cabinets or other storage containing these records, or store them in vault space each night. Pre-labeled boxes may be staged in the event the files must be moved.

Typically there is not enough money to protect all essential records against all potential emergencies. Conducting a Risk Analysis and Physical Threat Assessment will allow you to:

- Protect the most important records.
- Reduce the amount of damage caused by a disaster.
- Identify recovery priorities for damaged records.

Storage Recommendations

Taking these simple precautions when storing records may some day help avert a disaster:

1. Premises should be checked periodically for fire hazards such as discarded rags and newspaper, defective wiring, broken or unshielded pipes, oil leaks, blocked aisles, and voids in shelving. Fire traverses less rapidly when materials are shelved compactly!
2. Smoking should be prohibited in all storage areas. (Note: Smoking is prohibited in all public buildings.)
3. Class ABC fire extinguishers should be installed at strategic locations throughout the facility and serviced every six months.
4. If possible, install some type of smoke detection and fire suppressant systems.
5. Heating and air conditioning systems should be checked and cleaned annually. Fire dampers can be installed in ventilation systems to check the spread of fire through a facility.
6. The drainage of floors located above records storage areas should be checked, and back water valves in sub-grade drains should be installed. Drains should have the

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capacity to keep water from reaching the depth of three inches in the event of a sprinkler discharge.

7. If possible, storage facilities should be located above basement levels. The lowest shelf or drawer of a file cabinet should be off the floor.
8. If shelving is used, materials should be stored on steel shelving secured with bolts with cross-bracing between shelving units. Consult with a construction engineer in order to be sure ~~that~~ the bracing has adequate sway. Excessive bracing will cause the records to be thrown to the floor in the event of an earthquake.
9. Security microfilm [of essential records may be sent to the Washington State Archives for storage. If stored on-site, microfilm meeting state standards](#) should be packed in moisture tight cans before being placed in fire-resistant cabinets that produce moisture when heated. Steam will cause melting or stripping of the emulsion. Microfilm of different generic types, e.g., silver halide, diazo, and viscular, should be stored in separate vaults or cabinets, as the different types can interact with each other, producing dangerous gases.
10. Duplicate and discard all nitrate based negative films. This type of film is chemically unstable and highly flammable. It can spontaneously combust at room temperatures as low as 106 degrees F. Print all valuable negatives, and make a negative for all valuable prints without one. Copies of all negatives should be kept off-site.
11. If construction alterations are made to the facilities, be sure that fire-resistant or non-combustible materials are used in the walls and roofing of storage areas. Fire doors and fire dampers should be installed in the walls of any record storage areas.
12. Salvage and recovery procedures are made easier by the use of rag paper for documents, and avoiding the use of water soluble duplicator processes, and water soluble inks.

3.18.020 [PLAN AHEAD](#) Preparedness.

Make a Plan

[Immediate action at the time of an emergency is critical in order to successfully salvage records. There is no time to mull over and establish sound recovery procedures, open lines of communication, determine chain of command, or search out supplies. Creating an effective Records Emergency Action Plan in advance:](#)

- [Enables fast action, which is critical when responding to a records emergency.](#)
- [Ensures the actions taken are the correct actions and they are coordinated actions.](#)
- [Allows for the rapid resumption of operations.](#)
- [Protects records and maintains government accountability.](#)

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A Records Emergency Action Plan (REAP) should include actions and procedures to: (1) reduce the risk of a disaster, and (2) respond to and recover from a records disaster. It should be written by those responsible for the agency's records and be approved and endorsed by top management. It is important to be sure your REAP is identified in and complements the agency's overall emergency plans, i.e. Continuity of Operations (COOP), Continuity of Government (COG), Comprehensive Emergency Management Plan (CEMP) and/or Continuity of Business (COB) plan. Contact city and/or county emergency management coordinator(s) to share contingency planning information; review a copy of your municipal disaster plan. Those plans may also help to verify insurance coverage relating to the cost of post-disaster recovery of services, systems, and records/data. Many agencies operate under the National Response Framework (NRF), an all-discipline, all-hazards plan for the management of domestic incidents across all levels of government. The NRF operates through 15 Emergency Support Functions (ESFs). It should be noted that records fall within ESF-11, "Agriculture and Natural Resources," because records are classified as cultural resources. Additional information on the NRF is available through FEMA. An agency's REAP would be considered an "Emergency Operating Plan" by FEMA.

For assistance in creating a REAP, the "Essential Records Manual" published by the Washington State Archives:

- Provides step-by-step instructions for protecting essential records.
- Outlines procedures for prevention, preparedness, emergency response, and recovery.
- Includes forms and templates for ease in creating your plan.

In addition to the Washington State Archives, training on essential records protection, recovery options and handling techniques for various types of damaged records, and creating a Records Emergency Action Plan may also be available from the Council of State Archivists (CoSA)/IPER Project and FEMA. The Northeast Document Conservation Center has created an on-line disaster planning tool called dPlan™. Refer to Section 3.18.060, "Resources," herein.

~~Things to be done ahead include~~ A Records Emergency Action Plan should include:

1. Prepare-A diagram of each floor showing room numbers, aisles, exits and entrances, stairways, windows, emergency lights and evacuation routes. Include the locations of computer network servers and mainframes, telephone equipment rooms and first aid equipment. Note the location of fire extinguishers, fire alarms, sprinklers, smoke detectors, annunciator panels, and fuse boxes. Identify shut-offs and master switches for gas, electricity, water, HVAC system, and elevators. Make note of any

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hazardous materials on site and locations/access to master keys. Indicate the location of file cabinets, shelving, or other storage units by number, and associate that number with a contents list of the types of records located there. Indicate whether these records are essential records, current, inactive, or historical, and whether they have been duplicated or otherwise protected. Copies of the diagrams should be stored off-site.

2. Create A priority list for salvage ing of your records.
3. Prepare A list of records emergency response and recovery team members (and volunteers), including multiple forms of contact information, chain of command, and a communications plan who will be willing to assist in the recovery procedures, such as compiling inventories, packing, and removing damaged material.
4. A list of emergency contact numbers (building maintenance, insurance company, security company, utilities, Washington State Regional Archives, etc.).
5. Provide Instructions to all employees on those emergency procedures to be followed in the event of a disaster, such as the use of emergency equipment and evacuation procedures.
6. Prepare A list of professional consultants who can be contacted in the event of an emergency.
7. Inventory of emergency supplies stockpiled in advance.
8. Prepare A list of facilities, services and supplies that might be needed in the event of salvage and restoration operations. Include some out-of-region providers as second-source back-up in the event of a wide-spread disaster. It would be wise to contact the agencies and vendors who can provide either the facilities, services or the supplies, in order to figure calculate the approximate cost of various restoration procedures, and to enter into agreements for the use of these resources. Make sure agreements clearly cover what the vendor will and will not be doing. Keep these agreements current. Knowing the cost of various recovery techniques can often be the deciding factor in how a salvage problem is handled.*
9. A list of spaces within your own agency or other nearby facilities that might be useful for staging or recovery of salvaged records. (One standard archive box requires three standard 6-foot utility tables of drying surface.) Include information on equipment that will be needed such as electricity, water, communications, computers.
10. Funding plan (i.e. designated emergency account, petty cash, purchase orders, government credit card). NOTE: Records of expenses, staff time, overtime, etc., will be crucial if FEMA reimbursement is available for the emergency.
11. Emergency recovery processes for electronic records that will protect the most business-critical processes and minimize unplanned downtime and that address the

restoration of the network and systems, in addition to critical applications and functions. Issues to consider when incorporating emergency recovery issues into an electronic records management system are:

- Recovery of the IT infrastructure.
- Restoration of the operational and business processes.
- Recovery time for data availability based on analyzing the system for criticality.

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*Agencies in Washington State may be eligible to take advantage of a contract between the Washington State Archives and the Department of Enterprise Services for document recovery services and facility mitigation. Contact your Regional Archivist for information if your agency is not already part of the Washington State Purchasing Cooperative.

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Make copies of any forms and the instructions for their use that will be needed during recovery operations. Create and duplicate store the materials in one or more accessible locations, including off-site. These may include:

- Emergency contact information
- Essential records schedule
- Salvage priority lists
- Records recovery tracking system forms
- Damage assessment forms
- Recovery checklists
- Response plan
- Emergency equipment inventory lists—for supplies on hand and that may be needed
- Pack-out logs (for when records are moved)
- Purchase orders/Requisitions
- Labeling materials

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Once the REAP is approved, training and testing will be required to help staff become knowledgeable about their responsibilities, to validate your plans, and to reveal weaknesses in the REAP. Consider both desktop and large scale testing scenarios. Be cognizant of confidential information when distributing copies of the REAP. It is not necessary to distribute the entire plan to everyone involved. Copies should be kept in various locations, including off-site. The REAP must also be reviewed on a regular schedule (once a year) to ensure that all information is accurate and up to date and to integrate information on any new facilities, records initiatives, computer systems, etc.

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After your Records Emergency Action Plan is in place, consider creating a "Pocket Response Plan," which applicable staff can carry in a wallet. Templates are available through ARMA and CoSA. See Section 3.18.060, "Resources," herein.

What do you need to plan for?

Water is the most common cause of damage to records as it can result from severe weather conditions and from building problems such as leaks, broken pipes or poor drainage. Water damage may cause a progression to further damage such as mold. Even if a fire does not consume records, they will inevitably be damaged by water from sprinklers or the water used to extinguish the fire. A disaster may be the result of human threat or storage conditions. Your level of risk will also vary depending on geography, climate and other natural conditions where your agency exists, plus its immediate surroundings (i.e. near an airport or railway hub, chemical plant, etc.). Some types of disaster may not actually cause damage to the records themselves, but may result in loss of access to records or electronic data. Potential disasters include:

- Earthquake
- Fire, Smoke (charred and burned)
- Wildfire
- Flood or Leak
- Hurricanes
- Ice Storm
- Wind Storm
- Landslide
- Tornado
- Tsunami
- Volcano
- Power Failure
- Plumbing and Equipment Failures
- Chemical or Hazardous Material Emergency
- Radiological Weapons/Attacks
- Contamination (from substances poured on records, PCBs from transformers, sewage)
- Human and animal disease outbreaks
- Explosions, including aircraft crashes
- Human Error
- Computer Viruses or Hacking
- Terrorism/Vandalism
- Bomb Threats
- Civil Disorder/Riot

Services required may include:

- Contamination specialists
- Data recovery (hard disks, floppy disks, cassette tapes, CDs or DVDs, microfilm)

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- [Drying and dehumidification services and equipment](#)
- [Electrician](#)
- [Equipment rental \(generators, power cables, tables, HEPA-filtered vacuum\)](#)
- [Fire/smoke restoration](#)
- [Freezers \(cold storage\)](#)
- [Glass replacement](#)
- [Locksmith](#)
- [Mold remediation \(Mycologist\)](#)
- [Pest control/fumigation](#)
- [Plumber](#)
- [Preservation consultants](#)
- [Tree service](#)
- [Trucking/transport services](#)
- [Vacuum freeze drying](#)
- [Vacuum thermal drying](#)
- [Water damage restoration](#)

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3.18.030 INITIAL RECOVERY PROCEDURES RESPONSE.

[The first step in responding to an emergency is to assess the damage and take actions that will minimize additional damage and facilitate the most effective means of records recovery.](#) Immediate action is essential in the salvage of records. The ~~amount~~ [quantity](#) of records involved can often be the deciding factor in choosing between different procedures to accomplish the same objectives. For further information regarding treatment ~~decisions~~ [strategies for damaged records, contact your refer to resources available through the organizations listed in Section 3.18.060 herein.](#)

[The Records Emergency Action Plan \(REAP\) created by your agency will provide the basis for responding to any type of emergency. The initial response for most emergencies will likely include:](#)

- [Gain access to the damage site as quickly as possible.](#)
- [Assemble the recovery team as soon as possible using methods outlined in your REAP. The response effort must be led by a person or a team who understands records.](#)
- [Establish controls to ensure agency policy and procedures regarding the handling of all records are followed. Security will have to be provided for sensitive or confidential records or information.](#)
- [Make an initial damage assessment with recovery team members to note the volume, type and formats of records damaged and undamaged, extent and type of damage, and to photograph or videotape the damage. This information will be important for](#)

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insurance or audit purposes. Identify any secondary threats triggered by the initial emergency.

- Establish communications by preparing an initial report to management, and notifying staff, outside agencies as appropriate, and vendors that may be needed to assist with recovery efforts, including your Regional Archivist. Poor communication is one of the biggest complaints after an incident. Make use of a phone tree, automated emergency notifications, Twitter, texting, etc., in accordance with agency policies.

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A general plan of operations must be decided on before any recovery activities are started.

Specific responses will vary depending on the nature and extent of the emergency. The anticipated actions, supplies, priorities and recovery options for various disaster scenarios will be detailed in your agency's REAP. Having this information close at hand will allow you to make quick-fast and accurate decisions action-to stabilize the environment, will minimize damage to the materials, and allow the maximum quantity to be salvaged in a manner that reduces restoration costs. Decisions are needed regarding:

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1. **Stabilizing the environment.** Is the building structurally sound? Can it be stabilized and returned to use quickly? If there is water damage, continued high humidity will be a concern. Humidity will exacerbate existing damage to records and facilitate mold growth on records that were not damaged. Lower the temperature and relative humidity immediately. Increase air circulation. If there are signs of mold, point fans at the ceiling to avoid spreading mold spores. Segregate molding records from clean ones. Mold may also grows where there has been exposure to water (resulting in humidity) or when there has been an extended period of time without the heat on. If hazardous materials are involved, you should bring in professionals.

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2. **Prioritizing recovery efforts.** Can agency staff handle the amount of records damaged or will outside resources be required? What is the extent of damage and value of the records? Will you need a preservation or data recovery specialist?

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Assess the extent of the damage. The length of exposure to water, heat, chemicals, etc. may make some media or records unrecoverable. They may have to be abandoned in order to save other materials. Prioritizing records recovery will depend on several factors:

- First priority includes: Records with medium damage need the earliest treatment. Materials that are difficult or impossible to replace or replicate. Essential records that are not duplicated elsewhere and those needed immediately. Permanent records.

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• Second priority includes: Records with minor damage, as they can wait a bit longer. Records that are difficult to replace. Records that provide significant operational or research value but are not needed immediately. Records that are not duplicated elsewhere.

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• Third priority includes: Records with extensive damage, as chances of salvage are low and costly. Materials that can be replaced, are duplicated elsewhere, or that can be considered obsolete or expendable.

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Some types of media require prompt action in order to recover information successfully. If essential records are stored on media such as hard drives, magnetic tapes, parchment, and some photographic material, this should be taken into consideration when establishing salvage priorities.

3. Stabilizing the records and averting further damage. Refer to your REAP for information compiled on options including dehumidification, freezing, drying, decontamination, mold remediation, media and data recovery, and transporting records. Factors to consider include the volume of damaged records, types of media, degree of damage, accessibility required, and funding available.

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4. Determining what resources are required. Assemble the supplies, personnel and/or contractors needed. Your REAP should contain lists of supplies already on hand, contracts already in place, and contact information for other vendors and suppliers.

3.18.040 RECOVERY PRECAUTIONS

Although recovery efforts will be based on your Records Emergency Action Plan, specific recovery actions will be fine-tuned based on actual circumstances. It is important to plan ahead, but be flexible. Ideally, individuals handling damaged materials should do so under the direction of professionals.

Recovery efforts are those actions and treatments that will restore records to a useable state and allow the agency to resume operations. Before you begin, consider the following:

1. Do not start removing records without a plan. You need to know what was there, who it belonged to, where it has gone, and what happened to it. Tracking should be done at the box level, including:

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- owner (department) of record, record series, inclusive dates
- original office location (i.e. file cabinet, shelf, drawer, etc.)
- type of damage (water, fire, contaminant)
- response priority
- where it went (temporary storage, recovery, disposal, etc.)

- actions performed, and by whom

2. **Plan for how to pack records out.** Use the priorities established after the damage assessment. Avoid moving and storing records with no further value, if possible, although they may need to be moved out of the way for reconstruction or repair of the facility. Undamaged records that were in an environment conducive to mold may be refused admittance to a records storage facility. Your REAP should contain information on the appropriate containers, supplies and/or vendors required for packing out.

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3. **Stress safety.** Always work in pairs. There may be hazards such as water-soaked carpets or slippery floors. Watch for extension cords or other electrical wires touching water and avoid that area! Watch for sparks and broken or frayed wires. Leave if you smell gas or hear a blowing or hissing noise. Be alert for the smell of burning insulation. Contamination due to sewage, PCBs and mold are dangers. Have the site tested if necessary. Wear protective gloves, footwear, hats, masks, respirators*, etc. as needed. Be aware of anyone who has a compromised immune system or allergies. Wet records expand in size and weight, so lift smaller quantities than you normally would. Carry a light source.

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*The use of respirators in the workplace is governed by OSHA regulation CFR 1910.134., requiring employees to be fit-tested by a trained individual.

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Recovery Precautions

Several precautions are important during initial recovery procedures. In general,

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- mix damaged records with records that have not been damaged
- wipe mud or dirt off the materials
- open or close wet books
- separate loose materials or single sheets if stuck together
- remove covers of from soaked materials
- disturb or press wet books, paper, file boxes, prints, drawings, and photographs
- move fire-damaged records without using toweling or clean newsprint to support the pieces

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Do not walk on debris under which records may be located. Such treatment can destroy the materials or increase the cost of restoration.

Fire drawers containing wet records may be difficult to open due to swelling. Forcing them open may cause additional damage.

Use caution when handling file cabinets ~~which-that~~ have been subjected to intense heat. Documents in file drawers have been known to spontaneously ignite up to 72 hours after a fire when the drawers are reopened. Have an appropriate fire extinguisher ready in case of such an event. ~~Workers should be supplied with protective clothing where applicable.~~

~~One should be careful not to disturb damaged material in order to minimize further damage, and to exercise caution while opening file drawers that may be subject to delayed combustion.~~

If documents are only wet around the edges (i.e. the paper was in a box), air drying may be best. If there is extensive water damage, you need to decide between:

- Physical rehabilitation of the documents, OR
- Destroying these and creating new originals from back-ups (replacement)

If documents are soaked (i.e. papers that were stacked on a desk), use freeze drying to prevent them from sticking together. Remember, wet records will tear easily.

Some materials should be kept wet until they can be recovered by a contractor who specializes in the recovery of those materials. Examples include microfilm, motion picture film, flash drives and hard drives from computers. Seal them in plastic and do not let them dry out.

If outside contractors will be used to assist with staging and recovery, continued oversight of their procedures is required, and good lines of communication are critical.

3.18.050 POST RECOVERY.

Records that have been damaged will never return to their original condition. Water and humidity may cause paper to curl, wrinkle and swell. Ink may run. Mold damage may occur. Dried records will have a larger volume than before the damage. More file space will be needed than before.

If there was mold or the potential for mold, the storage area should be sterilized to destroy any mold and inspected for any signs of residual moisture or mold. Maintain a stable temperature (50 to 60 degrees F) and relative humidity (35 to 45 percent). Higher temperatures and humidity will promote mold growth, particularly in previously damaged or moldy records. For at least one year following the event, schedule regular inspections to check a random sampling of the records for any signs of mold.

Conduct an analysis of the event and prepare a detailed after-action report:

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- Identify the cause of the emergency and whether any precautions can be implemented to avoid a recurrence.
- Meet with team members regarding lessons learned. What went right and what went wrong?
- Identify any parts of your Records Emergency Action Plan that need to be updated or changed.
- Make note of any suppliers, contractors or facilities that proved inadequate.

In addition, prepare a separate post-event report to summarize and document the incident, response and recovery.

3.18.060 SPECIFIC RECOVERY INFORMATION RESOURCES.

The "Essential Records Manual" is available from your Regional Archivist or the Secretary of State's Division of Archives and Records Management. They can also provide training, additional information about specific recovery techniques for various types of records, and emergency assistance during a records disaster. They can be reached at:

Washington State Archives: www.sos.wa.gov/archives/recordsmanagement

Phone numbers for Regional Archivists are listed in Chapter-Section 9.16.040 herein, or contact the Washington State Archivist at 360-753-5485/360-586-1492, or the Division of Archives and Records Management at 360-586-0108.

The following organizations also offer training and/or resources for emergency planning:

- Council of State Archivists (CoSA), including the IPER Project (Intergovernmental Preparedness for Essential Records): www.statearchivists.org
- Federal Emergency Management Agency (FEMA): www.fema.gov
- Washington Military Department – Emergency Management Division: www.emd.wa.gov
- ARMA International (Association of Records Managers and Administrators), which also has local chapters: www.arma.org
- NAGARA (National Association of Government Archives and Records Administrators): www.nagara.org
- Heritage Preservation: www.heritagepreservation.org (check on their Field Guide and Salvage Wheel among other resources)

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- [Northeast Document Conservation Center: www.nedcc.org](http://www.nedcc.org) (check on their dPlan™ tool among other resources)
- [NFPA 232, Standard for the Protection of Records: www.nfpa.org](http://www.nfpa.org)

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Chapter 4.04 FORMS OF MUNICIPAL GOVERNMENT

Sections:

- 4.04.010 Generally.
- 4.04.020 City and town powers.
- 4.04.030 Classification of cities and towns.
- 4.04.040 Forms of government.
- 4.04.050 Mayor-council form.
- 4.04.060 Council-manager form.
- 4.04.070 Commission form.
- 4.04.080 Statutory references.

4.04.010 GENERALLY. No form of government will, in itself, produce good government. There must be an informed, alert citizenry in order to make governmental machinery effective. To understand the government of your own city, you must have some appreciation of the various forms of municipal government, their alleged advantages and disadvantages, and the manner in which they operate in Washington.

4.04.020 CITY AND TOWN POWERS. Cities and towns are authorized to levy sales, business, and property taxes and must furnish police and fire protection. They may require and issue licenses for the purpose of regulation or revenue generation; grant various franchises and acquire and operate certain types of public utilities; and borrow money or issue bonds for the purpose of raising funds. They may enact building codes and zoning ordinances; may purchase, lease, condemn, or otherwise acquire real and personal property for city purposes; and provide construction and maintenance of streets, alleys, parks, and sidewalks.

4.04.030 CLASSIFICATION OF CITIES AND TOWNS. The class of government that a Washington city or town will have is determined by its size at the time of incorporation. The classification scheme for Washington municipalities was changed significantly at the 1994 legislative session. There are now four classes of municipalities; first class cities have over 10,000 in population; second class cities have 1500 to 10,000; towns have between 300 and 1500; and Optional Municipal Code cities must have at least ~~300~~ 1500. While the class of government is determined at the time of incorporation, cities and towns do not automatically change classification upon attaining the population of a different class. The Optional Municipal Code class of government allows cities to operate under a statutory home rule concept. Any city or town, regardless of population, may elect to become a non-charter code city and be governed under statutes in the Optional Municipal Code, rather than under existing statutes relating to its current class. Any city adopting the Optional Municipal Code by becoming a code city abandons its previous classification. ~~as a first or second class city or a town.~~

~~The Optional Municipal Code confers the broadest powers of local government consistent with the state's constitution to enjoy the same broad powers otherwise granted only to first class cities. was designed to provide broad statutory home rule authority. Any unincorporated area having a population of at least 1500 may incorporate as an Optional Municipal Code. Optional Municipal Code cities with a population over 10,000 may also adopt a charter.~~

4.04.040 FORMS OF GOVERNMENT. Washington cities use three principal forms of government:

mayor-council; council-manager and commission. The essential difference among the three forms is how the legislative and administrative responsibilities are separated. Cities organized under the Optional Municipal Code must adopt either the mayor-council or council-manager plan unless the city was previously organized under the commission form. Cities and towns have the option of choosing one of the three forms of government provided by statute, if the population requirements of the particular form are met. Cities having a population of 10,000 or more may ~~frame~~ form a charter which provides greater latitude in designing the administrative framework of city government.

4.04.050 MAYOR-COUNCIL FORM. The mayor is the chief executive officer and administrative officer of the municipality. The mayor is responsible for carrying out policies of these offices. A mayor and council are elected and the remaining city elected offices vary with the class of the city. The size of the council is determined by class and population.

4.04.060 COUNCIL-MANAGER. Basic to this system, as well as the mayor-council system, is the belief that policy-making and administrative functions should be kept separate. The council, which determines policy and is politically responsible for its actions, selects a city manager as chief administrator. The manager is accountable to the council.

The mayor is chosen biennially by the council from the council ranks except in unique circumstances (i.e. charter cities). In charter cities the charter may provide for direct election of the Mayor. RCW 35A.13.033 does authorize a procedure for the voters to directly elect the Mayor. In the council-manager form, a council is elected with the number of council members, five or seven, determined by population. While the mayor retains council member rights and privileges, and is recognized as head of the city for ceremonial purposes, he does not have any regular administrative duties.

4.04.070 COMMISSION FORM. The commission form provides for the election of three commissioners to serve terms of four years. The three are elected at-large to fill the specific offices of commissioner of public safety (also serves as mayor), commissioner of finances and accounting, and commissioner of streets and public improvements (public works). The commissioners, as a body, are authorized to determine by ordinance the powers and duties of all department officers and employees. The mayor has essentially the same powers as other commissioners, and has no veto power nor any power to direct city administration except in his/her own department.

4.04.080 STATUTORY REFERENCES. Title 35 RCW: Cities and Towns and Title 35A RCW: Optional Municipal Code.

See the manual.

Chapter 4.08 LEGISLATIVE PROCEDURES

Sections:

- 4.08.010 Legislative procedures generally.
- 4.08.020 Legal procedures--your city attorney.
- 4.08.030 Ordinances.
- 4.08.040 Resolutions/motions.
- 4.08.050 Enacting clauses.
- 4.08.060 Emergency ordinances.
- 4.08.070 Ordinance vs. resolution.
- 4.08.080 Actions requiring passage by ordinance.
- 4.08.090 Indexes of ordinances and resolutions.
- 4.08.100 Public hearings.
- 4.08.110 Conflict of interest.
- 4.08.120 Appearance of fairness doctrine.
- 4.08.130 Street vacations.
- 4.08.140 Appeal procedures.
- 4.08.150 City/town seal.
- 4.08.160 Franchises.
- 4.08.170 Oath of office and bonds.

4.08.010 LEGISLATIVE PROCEDURES GENERALLY. The ~~City~~ Clerk is required by statute to perform certain legislative functions such as maintaining the official record of proceedings and filing of certain documents to ensure the continued operation of the city. This chapter discusses various legislative areas where the ~~City~~ Clerk might desire clarification. The listing is not inclusive but is representative of the types of legislative areas in which the ~~City~~ Clerk may be expected to be knowledgeable.

4.08.020 LEGAL PROCEDURES--YOUR CITY ATTORNEY. All cities either contract for or have on staff an attorney to advise the elected officials and the staff members on matters which might have legal implications.

Each attorney handles advice, comments or opinions in a different manner. However, it is important for the ~~City~~ Clerk to record oral advice given in some form so that, should you need to check the same question at a later date, you have a written reference and do not have to ask the same question. This written reference can be in the form of a memorandum to the file noting the date and time of discussion with the attorney and the topic of discussion and the answer provided by the attorney. It is suggested that a copy of this memo be provided to the attorney as well.

In the event ~~that~~ the ~~city~~-council/board/commission or a member of the staff requests a formal opinion from their legal counsel, this is usually completed in writing from the ~~city~~ attorney and sometimes is numbered and indexed in a similar fashion to the opinions offered by the attorney general. Quite often these opinions will also have attachments. These opinions and attachments should be kept on file by the ~~City~~ Clerk. Check with the ~~city~~ attorney before relying on an old opinion. Statutes and case law are not static.

~~City~~ attorneys should review resolutions, ordinances and agreements prior to presentation to the city council. Many times these documents are prepared by the attorney's office. Conditions

for approval attached by the ~~city~~ council/board/commission may require city attorney approval on documents such as insurance certificates, labor and materials bonds, specifications, or contract completion. Many ~~City~~ Clerks have devised a transmittal memo to the ~~city~~ attorney which will provide for approval, signature, review and comment, or requested action.

4.08.030 ORDINANCES. Ordinances are the laws of a municipality and are the most binding form of action taken by the ~~city~~ council/board/commission. The Ordinance form is required where an existing ordinance is to be amended or repealed; when the law will impose a penalty by fine, imprisonment or forfeiture; and when state law expressly requires it. Actions which have a general legislative purpose must be done by ordinance.

Ordinances typically contain a title which completely describes the content of the ordinance; recitals which outline the background and purpose for the ordinance ("the whereas's"); a statement which reads, "Now therefore, the city council of the city of _____ does hereby ordain as follows;" and the sections which actually state the legislation being enacted.

Ordinances are signed by the mayor and attested by the ~~City~~-Clerk and include the date of passage and the effective date which, if the ordinance is not subject to referendum, is typically five days after the date of publication in the ~~city's~~ official newspaper. In order to save publication costs, the ~~City~~-Clerk may, with the approval of the city attorney, prepare a summary of the ordinance for publication. This summary shall mean a brief description which succinctly describes the main points of the ordinance. When ~~the city summary is~~ published a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request at no cost.

4.08.040 RESOLUTIONS/MOTIONS. Resolutions, in contrast, are simply an expression of the opinion or mind of the legislative body concerning some particular item of business or matter of administration coming under its jurisdiction. A resolution can be a statement of policy or a way of taking administrative action. Although some jurisdictions do distinguish between motions and resolutions, the rule in Washington is that the terms "motion" and "resolution" are practically synonymous. Resolutions have no publication requirement and take effect immediately upon adoption. The resolution form is required to amend or repeal a prior resolution.

4.08.050 ENACTING CLAUSES. Be sure to read the enacting clauses of the ordinances and resolutions enacted by your ~~city~~ council/board/commission to determine if you need to record those documents with the county recorder. The most common documents required to be recorded are resolutions accepting deeds to property, resolutions approving conditions for a final planned unit development and other legislation which affects land use that should be recorded against the parcel of property.

4.08.060 EMERGENCY ORDINANCES. Emergency ordinances may be passed by the council/board/commission in some situations and become effective immediately.

4.08.070 ORDINANCE VS. RESOLUTION. In deciding whether to use an ordinance as opposed to a resolution, the first step is to refer to your city charter, if you have one, and the Revised Code

of Washington (RCW) If the charter and the code are silent as to the mode of decision making, then either ordinance or resolution may be used provided, however, that "legislation" must be enacted by ordinance. Refer to your ~~city~~ attorney for advice in this matter.

4.080.080 ACTIONS REQUIRING PASSAGE BY ORDINANCE. ~~Cities~~ Jurisdictions often are treated differently according to ~~their~~ classification and population. Some common threads run through the statutes, however. For example, the adoption of the final ~~city~~ budget, establishment of a municipal court system and adoption of personnel policies are required for adoption by ordinance.

4.08.090 INDEXES OF ORDINANCES AND RESOLUTIONS. The ~~City~~ Clerk should set up a system to keep track of ordinances and resolutions. The system should include an index by subject matter as well as a chronological list of ordinances or resolutions or motions. ~~In addition, the city clerk is required to keep ordinance and resolution books with the original ordinances and resolutions in them.~~ Certified copies of ordinances and resolutions may be prepared by the ~~City~~ Clerk's office for requests by the public; however, the original ordinances and resolutions should stay with the ~~city~~ Clerk. If you have your ordinances codified, there may be index of the ordinances prepared for you.

4.08.100 PUBLIC HEARINGS. A public hearing before the council/~~board~~/commission is required by the RCW or by ~~city~~ ordinance when ~~the council is~~ considering major zoning or land use issues; prior to budget adoption; as a part of local improvement district proceedings; and at other times set by state or city legislation. In general, a public hearing is an open consideration within a regular or special regular meeting of the ~~city~~ council/~~board~~/commission for which special notice has been given. The notice requirements are set by state or ~~city~~ jurisdictional law. During a specified portion of the hearing, concerned individuals are invited to present their opinions regarding the subject under consideration. A public hearing is open to everyone who wishes to speak. Public hearing notices may be required to be posted, published, and mailed. Refer to your ~~city~~ code, the RCW and ~~your city~~ attorney to ensure compliance. Keep copies of ~~the~~ notices ~~that you~~ posted, published and/or mailed along with certificates attesting to ~~their~~ authenticity for proof ~~that~~ the public hearing was held in accordance to law.

4.08.110 CONFLICT OF INTEREST. The Washington Supreme Court has held that a ~~Councilmember~~ public official may not vote on a matter where his or her financial interest is especially affected. In addition, state law forbids public officials from having personal financial interest in contractual matters over which they have control, whether or not they vote on the matter. The public's concern for conflicts of interest is reflected in several sections of the Open Government Law. A major segment of that act, RCW 42.17.240, is devoted to requiring some candidates and public officials to make a financial disclosure statement at various times throughout their campaign and their term of office so the public can be informed about potential conflicts. A new statute, RCW 42.23.070, provides a list of prohibited acts for ~~city~~ officials, including a specific provision against disclosure of confidential information. Public officials are prohibited from being "beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in

part, or which may be made for the benefit of his office or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein " This means ~~that~~ an elected official, mayor or other executive officer having broad supervisory control over ~~the city's~~ contracts or operations may not have anything but a "remote" interest in contracts with the municipality. Remote interests are detailed in RCW 42.23.040. Both direct and indirect financial interests are prohibited and the law also prohibits an officer from receiving financial benefits from anyone else having a contract with the municipality.

If ~~you a public official in your agency is~~ suspected ~~that a councilmember or other public official in your agency has of~~ a conflict of interest, ~~you may wish to~~ discuss it with ~~that the~~ official to ensure ~~that~~ they are aware of the statutory prohibitions. A public officer who violates chapter 42.23 of the RCW may be held liable for a ~~\$300~~ \$500 civil penalty in addition to any criminal or civil liability or penalty as may otherwise be imposed. Secondly, the contract entered into by the municipality may be held void, and finally, the officer may have to forfeit his or her office.

4.08.120 APPEARANCE OF FAIRNESS DOCTRINE. The appearance of fairness doctrine covers broader ground than the financial interest prohibitions described earlier. The appearance of fairness doctrine was first established in 1969 by case law, but was enacted by the legislature in 1982 and codified as RCW 42.36. This doctrine also applies to emotional, sentimental or other biases on the issue being considered at certain hearings. Whenever city councils/~~boards/commissions~~, planning commissions, civil service commissions and similar bodies are required to hold hearings that affect individual or property rights ("quasi-judicial" proceedings), these proceedings should be governed by the same strict fairness rules that apply to cases in court. Generally speaking, this rule requires ~~that~~ such hearings must not only be fair, they must also be free from even the appearance of unfairness.

The appearance of fairness doctrine applies only to quasi-judicial actions which are defined as, "... actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties or privileges of specific parties in a hearing or other contested case proceeding." (RCW 42.36.010). This doctrine does not apply to local legislative actions which adopt, amend or revise comprehensive community or neighborhood plans or other land use planning documents which have area-wide significance. The prohibition against ex-parte communications provides that if a member of the decision making body communicates with proponents or opponents outside the setting of the hearing, in order to continue to participate, the member must place on the record the substance of such communications and publicly announce the content of the communication and of the parties rights to rebut the substance of the communication at each hearing where action is taken or considered on the subject. This does not prohibit correspondence between a citizen and his or her elected official if the correspondence is made part of the record and available to all members of the decision making body.

Anyone seeking to disqualify a member of a decision-making body must raise the challenge as soon as the basis for disqualification is made known. A challenged official may participate and

vote in proceedings if his or her absence would cause lack of a quorum or would result in a failure to obtain a majority vote as required by law, provided that a challenged official publicly discloses the basis for disqualification prior to rendering a decision.

As a rule of thumb, when in doubt, the appearance of fairness doctrine should be construed broadly; however, ~~your consult with the city~~ attorney and chief administrative officer ~~should be consulted~~ when ~~you are~~ in doubt.

4.08.130 STREET VACATIONS. The general authority for the vacation of public streets is provided in Chapter 35.79 of the RCW. Initiation of proceedings to effect a street vacation may be by petition by and on behalf of abutting owners, or the legislative body of the city may initiate by resolution. The petition method provides that when the petition is signed by the owners of more than two-thirds of the abutting property the legislative authority, by resolution, shall fix a time for hearing on the petition at a time between twenty days and sixty days of the adoption of the resolution, with twenty days' posted notice of the date of hearing.

Resolutions of the legislative body ~~of the city~~ without petition require additional notice by mail of fifteen days to all owners or reputed owners of property abutting the street for which vacation is sought. In the event fifty percent of these abutting property owners file written objections prior to the hearing, the ~~city jurisdiction~~ is prohibited from proceeding with the vacation.

Following the hearing, ~~authority is granted by ordinance~~, if the council/~~board/commission determines to grant approves~~ the street vacation, ~~the city has authority by ordinance to vacate the street~~. The council/~~board/commission~~ may require compensation from the abutting property owners in an amount which does not exceed one-half the appraised value of the area so vacated. The city may retain an easement over the vacated land for the construction, repair and maintenance of public utilities which may be in the street. Street vacation ordinances must be recorded with the county auditor.

4.08.140 APPEAL PROCEDURES. The RCW's and ~~city local~~ ordinances provide ~~that~~ many actions of the ~~city's~~ SEPA official, hearing examiner, planning commission or zoning administrator either are or can be made appealable to the ~~city~~-council/~~board/commission~~. ~~City~~-Clerks should familiarize themselves with the applicable code sections pertaining to each type of appeal. There are usually statutory limitations on the appeal period and requirements for setting and noticing hearings to be held on appeals. Once the ~~City~~-Clerk determines that an appeal is being filed in a timely manner and with the appropriate fee, the affected department should be provided with a copy of the appeal and a hearing date set. Some cities require the hearing dates be set by the legislative body. Others permit the mayor or city manager to set the hearing date. Appeal forms should be provided by the city ~~clerk~~ and should include a space for the appellant's name, address and phone number, a description and number of the project or permit being appealed and a space for the appellant to explain the grounds or basis for the appeal.

4.08.150 CITY/TOWN-OFFICIAL SEAL. The ~~city or town official~~ seal is the property of your ~~municipality jurisdiction~~ and should only be used for official purposes. When you are preparing certified copies of ordinances or resolutions, ~~you may wish to affix~~ the ~~city official~~ seal ~~may be~~

affixed over the mayor's signature or the City Clerk's signature. Some cities-jurisdictions place the city seal on the original copies of ordinances and resolutions. However, this is not required by law. The city seal is often placed on a gold emblem and affixed to proclamations, commendations, and certificates of appreciation. The city official seal should not be used on documents not maintained in city offices. Members of the public often have varying requests to have their signature certified or acknowledged and in most cases, notarization by a notary public is adequate for their-this purposes. A notary seal and affidavit attest to the signature of a person signing a document; however, your-city-the official seal should only be used to certify or otherwise authenticate city documents owned or maintained by the jurisdiction.

4.08.160 FRANCHISES. A franchise is the right to use public streets or other publicly owned property for facilities owned by a private business. Franchises are granted for the construction and maintenance of public utilities such as telephone, cable television, railroad, gas, water, and electricity.

Franchises must be granted by ordinance and there are specific procedures required for the enactment of franchise ordinances by each class of city. First class cities should consult their local charters. Code cities RCW 35A.47.040, second class cities see RCW 35.23.390 and 35.23.400 and towns see RCW 35.27.330.

4.08.170 OATH OF OFFICE AND BONDS. The City Clerk, city treasurer, chief of police, councilmembers and other officers or employees as may be designated by ordinance or by charter shall be required to take an oath, or affirmation, for the faithful performance of his or her duties. In addition, these officers or employees may be required to furnish annually an official bond conditioned on the honest and faithful performance of their official duties. Your city's jurisdiction's insurance agent or broker will be able to advise you on bonding for city officials. The city-jurisdiction pays the premiums for these bonds. See RCW 35A.13.160, RCW 35A.12.080 and RCW 35A.13.160.

Chapter 4.10 ELECTIONS

Sections:

- 4.10.010 Statutory authority.
- 4.10.020 Conduct of elections.
- 4.10.030 Nomination of local candidates.
- 4.10.040 Election day.
- 4.10.050 Election follow-up.
- 4.10.060 Voter registration by mail.
- 4.10.070 Absentee voting.
- 4.10.080 New voter registration or transfer acknowledgement.
- 4.10.090 Closing registration files--notice.

4.10.010 STATUTORY AUTHORITY. Elections in the State of Washington are governed by the provisions of RCW Titles 29A, 35 and 35A.

Title 29A RCW contains the basic information on voter registration, times for holding elections,

notice of election, absentee ballots, recall elections, polling place regulations, voters pamphlets and so forth. These apply to cities and towns.

In addition, some additional election information, such as eligibility requirements for elective office, are contained in the chapters which relate to each class of municipality.

4.10.020 CONDUCT OF ELECTIONS. In Washington State elections are conducted by the counties; however, you should familiarize yourself with the upcoming election dates and the deadlines which precede them for the close of registration, filing nomination papers for candidates for public office, and filing of arguments for ballot measures.

4.10.030 NOMINATION OF LOCAL CANDIDATES. Candidates for city/town council or commission file their nomination papers with the county election department. Some City Clerks wish to provide papers and transmitting them to the county. This is not recommended because you may seriously disappoint a council candidate when a situation beyond your control prevents you from filing on his or her behalf in a timely manner!

4.10.040 ELECTION DAY. It is recommended that City Clerks familiarize themselves with the addresses of their County Auditor's office, polling places, the candidates and ballot measures, and the hours the polls are open. All Counties within Washington State have changed to mail in voting only.

4.10.050 ELECTION FOLLOW-UP. If you have had candidates for your council/commission in an election, you may wish to post the preliminary results at City Hall in the morning following election day. Provide your public information staff with a copy, and instruct them to inform callers that the results are preliminary and not official until the canvass is certified by the county. Incumbents should be given an oath of office as the first item of business at the first council meeting of their term, up to ten days prior to assuming office or at the last regular meeting of the governing body before they assume office.

4.10.060 VOTER REGISTRATION BY MAIL. Since January 1, 1994, Washington State has provided for voter registration by mail. The county auditor distributes forms by which a person may register to vote by mail or/and cancel any previous registration in this state. It is the responsibility of the county auditor to review applications to determine whether the information is complete.

4.10.070 ABSENTEE VOTING. Any voter may apply, in writing, for status as an ongoing absentee voter. Each qualified applicant automatically receives an absentee ballot for each ensuing election for which he or she is entitled to vote and need not submit a separate request for each election.

4.10.080 NEW VOTER REGISTRATION OR TRANSFER - ACKNOWLEDGMENT. The county auditor acknowledges each new voter registration or transfer by providing or sending the voter a card identifying his current precinct and containing such other information as may be prescribed by the secretary of state.

4.10.090 CLOSING REGISTRATION FILES - NOTICE. The registration files of all precincts shall be closed against original registration or transfers for thirty days immediately preceding every election and primary to be held in such precincts, respectively.

The county auditor shall give notice of the closing of said files for original registration and transfer by one publication in a newspaper of general circulation in the county at least five days before such closing.

Chapter 4.12 LOCAL VOTERS' PAMPHLET

Sections:

4.12.010 Generally.

4.12.020 Notice of production.

4.12.030 Administrative rules.

4.12.040 Preparation of arguments advocating approval and disapproval by committees.

4.12.050 Registration with Public Disclosure Commission.

4.12.010 GENERALLY. The City Clerk should maintain a policy and procedure for participation in the local voters' pamphlet. RCW 29.81A.010 provides that at least 90 days before any primary or general election, or at least 40 days before any special election, the legislative authority of any county or first-class or code city may adopt an ordinance authorizing the publication and distribution of a local voters pamphlet.

4.12.020 NOTICE OF PRODUCTION. Not later than ninety days before the publication and distribution of a local voters' pamphlet by a county, the county auditor shall notify each city, town, or special taxing district located wholly within that county that a pamphlet will be produced. If a first class or code city authorizes the production of a local voters' pamphlet, the city clerk of that city shall notify any special taxing district located wholly within that city that a pamphlet will be produced.

4.12.030 ADMINISTRATIVE RULES. The county auditor or City Clerk, if the city is publishing the voters' pamphlet, shall adopt and publish administrative rules necessary to facilitate the provisions of any ordinance authorizing production of a local voters' pamphlet. The rules should include: 1) deadlines for decisions; 2) limits on the length and deadlines for submission of arguments for and against each measure; 3) basis for rejection of any explanatory or candidates' statement deemed to be libelous or otherwise inappropriate; and 4) an appeal process in the case of the rejection of any statement or argument.

4.12.040 PREPARATION BY COMMITTEES OF ARGUMENTS ADVOCATING APPROVAL AND DISAPPROVAL. For each measure that is included in a local voters' pamphlet, the legislative authority shall, not later than 45 days before the publication of the pamphlet, formally appoint a committee to prepare arguments advocating voters' approval of the measure and another committee to prepare arguments advocating voters' rejection of the measure. The authority shall appoint persons known to favor the measure to serve on the committee advocating approval and shall, whenever possible, appoint persons known to oppose the measure to serve

on the committee advocating rejection. Each committee shall have not more than three members; however, a committee may seek the advice of any person or persons.

4.12.050 REGISTRATION WITH THE PUBLIC DISCLOSURE COMMISSION. The Pro and Con committees must register with the State Public Disclosure Commission, in the same manner as do political candidates and groups.

Chapter 4.14 INITIATIVES AND REFERENDUMS

Sections:

- 4.14.010 Generally.
- 4.14.020 Definitions.
- 4.14.030 Obtaining the powers of initiative and referendum.
- 4.14.040 Process.
- 4.14.050 Election dates.
- 4.14.060 Ordinances not subject to referendum.
- 4.14.070 Restrictions.
- 4.14.080 Exercising the powers of initiative and referendum.
- 4.14.090 Form of a petition.
- 4.14.100 Time limit on petition signatures.
- 4.14.110 Certification process.
- 4.14.120 Referendum ballot title.

4.14.010 GENERALLY. The powers of initiative and referendum in non charter code cities are those set for the commission form of government in RCW 35.17.240 through 35.17.360, except that the number of registered voters needed to sign a petition for initiative or referendum shall be 15% of the total number of registered voters in the city at the last municipal general elections (RCW 35A.11.100). The powers of initiative and referendum are not available to second class cities and towns. The powers of initiative and referendum are not automatically available to code cities but may be adopted by the city council. (See RCW 4.14.030)

NOTE: The laws governing which ordinances are subject to referendum and which matters are appropriate subjects for an initiative are very complex. Consult the city attorney for assistance whenever these issues arise.

4.14.020 DEFINITIONS. An initiative is a procedure which enables a specified number of voters, by petition, to propose or initiate a law or ordinance for submission to the city's voters for approval or rejection. For example, when the city council chooses to not pass legislation (and ordinance) which the voters want to have adopted, the electorate may present an initiative to the appropriate official or city governing body to have the subject go to the vote of the people in a citywide election.

A referendum is the practice of submitting a petition to the City Clerk ~~within 30 days from~~ after the adoption of an ordinance by the city council to determine whether it shall become effective. In other words, referendum is the right of the people to approve or reject an ordinance adopted by the city council by requesting the council to reconsider or to conduct a citywide election for a

vote on the subject. The referendum process is usually used with the objective of defeating an ordinance adopted by the city council. The filing of a referendum petition does not nullify the ordinance. It merely suspends or prevents it from going into effect until a citywide election ~~have~~ has been held on the measure.

4.14.030 OBTAINING THE POWERS OF INITIATIVE AND REFERENDUM. There are two methods by which a code city's voters can obtain these powers:

1. A petition seeking the powers of initiative and referendum may be filed with the City Clerk signed by registered voters of the city equal to at least 50% of the votes cast in the last general city election. If the petition is sufficient, the city council must adopt a resolution declaring that the citizens have decided to adopt the powers of initiative and referendum. The resolution is published and, if no referendum petition is filed within 90 days, the city council must adopt an ordinance providing for initiative and referendum.

NOTE: If a referendum petition is filed in timely manner (RCW 35A.02.035) and signed by registered voters in a number not less than 10% of the votes cast in the last general city election, then the issue must be submitted to the voters at the next general city election if there is to be one within 180 days. If not, then a special election must be called. If the voters approve the matter, the city acquires the powers of initiative and referendum.

2. A majority of the city council may, by resolution, declare its intent to provide for the powers of initiative and referendum. The resolution is published and, if not referendum petition is filed within 90 days, the city council adopts an ordinance providing for initiative and referendum.

See NOTE above.

4.14.040 PROCESS. When an ordinance is adopted by the city council on a topic which is subject to the powers of initiative and referendum, the ordinance does not become effective in the usual five days after passage and publication, but retains a 30-day effective date. If the electorate (registered voters) of the city do not object to the topic and the adoption of the ordinance, it will become effective 30 days after passage and publication. However, if the electorate feel strongly about the topic and want the city council to reconsider or to submit the ordinance to a vote of the people, they may invoke the powers of referendum by circulating a petition requiring the signatures of registered voters equal to 15% of the total number of the registered voters within the city on the day of the last municipal general election. A copy of the ordinance subject to such referendum petition should be attached to each petition sheet for the information of the parties requested to sign the petition.

The Clerk may assign an identifying number and obtain legal review by the city attorney regarding the legitimacy of the petition and the form or wording which is to be placed before the voters. These types of petitions usually have a time limit within which signatures must be obtained and the petition returned to the Clerk in order to be valid. Completed petitions are filed with the City Clerk, who is responsible for determining the validity of the petition, i.e., that it

fulfills the legal requirements as to content. The city attorney assists in this determination. After the petition is determined to be valid as to subject and content, it is then forwarded to the county elections official to determine sufficiency, i.e., that the petition contains the required number of valid signatures.

4.14.050 ELECTION DATES. These are dependent on the laws on which the petition is based and so it is very important to check with the county elections official as to election requirements.

4.14.060 ORDINANCES NOT SUBJECT TO REFERENDUM. Certain ordinances are exempt from the referendum process:

- ordinances initiated by petition;
- ordinances necessary for the immediate preservation of public peace, health, and safety, or for the support of city government and its existing public institutions, which contain a statement of urgency and are passed by unanimous vote of the city council;
- ordinances providing for local improvement districts;
- ordinances appropriating money;
- ordinances providing for or approving collective bargaining;
- ordinances providing for the compensation or working conditions of city employees; and
- ordinances authorizing or repealing the levy of taxes.

4.14.070 RESTRICTIONS. The power of initiative and referendum is limited to legislative ordinance, and not to administrative or executive action.

1. If the authorizing legislation places the power in the "legislative body" rather than the "city", the ordinance is not subject to referendum. In other words, if a state statute says "the legislative body of the city is authorized to . . .", and the city council adopts an ordinance to do that, it is not subject to referendum.

2. Administrative (or quasi-judicial) actions are not subject to referendum. Thus, rezones, which are administrative (or quasi-judicial) are not subject to referendum (*Leonard v. Both-ell*).

3. Statutory scheme exemptions are those when there is a statutory arrangement that the courts have found to indicate a legislative intent not to allow referendum. For example, in *Bidwell v. Bellevue*, the Court of Appeals held that allowing an initiative on whether the city should enter into a lease purchase debt arrangement would conflict with state law, because state law allows incurring debt up to a specified limit without voter approval and the amount involved was under that limit.

4.14.080 EXERCISING THE POWERS OF INITIATIVE AND REFERENDUM. Registered voters may 1) initiate ordinances or 2) challenge certain ordinances adopted by the city council by referring them to an election process of acceptance or rejection. In either case, the process is begun by petition. In a code city, the petition requires the signatures of registered voters of at least 15% of the total number of registered voters in the city on the date of the last municipal general election, i.e., held in odd-numbered years (RCW 35A.11.100).

After receiving a valid initiative petition accompanied by the proposed ordinance, the city council must either 1) adopt the ordinance as it is proposed by the petitioners, within 20 days of

the certification that the signatures on the petition are sufficient, or 2) cause a special election to be held on the next election date, as provided in RCW 29.13.020 that occurs not less than 45 days thereafter, unless a general election is to be held within 90 days, at which the unaltered proposed ordinance is submitted to the voters. The county certification must be attached to the petition.

If, after an initiative petition has been filed on a certain subject, the city council adopts the proposed measure verbatim as the petitioners want it, or at least an acceptable amended version of the petition, the matter does not have to be referred to the election process.

4.14.090 FORM OF A PETITION. The petition may include any number of pages. Each page or group of pages shall contain:

1. the text of the petition (a clear statement of the action sought);
2. numbered lines for signatures; each line to contain the signature, the printed name of the signer, the resident address of the signer and zip code, and the date of signing;
3. a copy of the ordinance to be referred to the electorate; if the petition has a basis in law, the law should be referenced as such: ". . . as provided in RCW 26.12.010"; and
4. the following warning statement:

WARNING: Every person who signs this petition with any other than their true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he/she is not a legal voter, or signs a petition when he/she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

(RCW 35.21.005 and 35A.010.040, Sufficiency of Petition).

4.14.100 TIME LIMIT ON PETITION SIGNATURES. Petition signatures are good for only six months from the date of filing of the petition. (RCW 35.21.005(8)).

4.14.110 CERTIFICATION PROCESS. The City Clerk submits the valid petition and its signatures to the county elections official for verification of signatures. With reasonable promptness, this individual must ascertain sufficiency of the signatures, using the voter registration records, and must prepare a certification as to sufficiency and file this with the city clerk.

If the signatures are found to be insufficient, the City Clerk notifies the initiators of the petition, who then have 10 days from the date of certification of insufficiency to obtain more signatures. Again, within 10 days of receipt of the amended petition, the elections official must examine and ascertain sufficiency of the additional signatures and prepare a certification as to sufficiency or insufficiency as before.

If the second certificate shows the number of signatures to be insufficient, the petition shall be returned to the person filing it.

4.14.120 REFERENDUM BALLOT TITLE. RCW 29.79.055 requires that the referendum ballot title filed by the city be composed of three elements: 1) an identification of the enacting legislative body; 2) a concise statement identifying the essential features of the enactment on which the referendum is filed; and 3) a question asking the voters whether the enactment should be approved or rejected by the people.

The concise statement for local referendum measures must not exceed 75 words and must be prepared by the city attorney. The referendum measure must be advertised in the manner

provided for nominees for elective office. The concise statement shall constitute the ballot title (RCW 35A.29.120). When any question or proposition is submitted to the voters of a code city, it must be printed on a ballot which conforms with RCW 29.79.055, 9.27.060, 82.14.036, 82.46.021, or 82.80.090.

For more information see Initiative and Referendum Powers of Cities in the State of Washington, published by the Municipal Research & Services Centers, Report No. 28, February 2006.

Chapter 4.16 ANNEXATIONS

Sections:

- 4.16.010 Introduction.
- 4.16.020 Annexation generally.
- 4.16.030 Procedure for annexation.
- 4.16.040 Notice to review board.
- 4.16.050 Public hearing.
- 4.16.060 Notice to county.
- 4.16.070 Certificate of annexation.
- 4.16.080 Notification requirements.

4.16.010 INTRODUCTION. Annexation is a procedure for bringing unincorporated areas into the city. All information in this chapter is subject to change and it is advisable to check with your city attorney and/or the Municipal Research and Services Center for the legal requirements for your municipality. See also: The Annexation Handbook for Cities and Towns in Washington State, Report No. 19, which is on file at the MRSC.

4.16.020 ANNEXATION GENERALLY. An annexation area is usually located adjacent to an incorporated city. Once an area is annexed, the city replaces the county as the primary provider of local government urban services. In the city, these services could include police, fire, water and sewer services, transit service, if applicable, residential refuse service, animal control, zoning and land use planning, building regulation and inspection, improvement and maintenance of streets, parks and recreation services. Some cities contract for many of these services. City residents are eligible to vote in all city elections, serve on the city council, and can serve on various appointed boards and commissions.

4.16.030 PROCEDURE FOR ANNEXATION. Washington state law governs the procedures for annexation. Annexation may be accomplished through an election, or by petition, which is the most common annexation method.

As explained in the text Annexation Handbook for Cities and Towns in Washington State, first, ~~and~~ second class cities and towns are subject to Chapter 35.13 RCW and code cities are subject to Chapter 35A.14 RCW. However, both annexation laws are similar in many respects, such that documents from all classes of cities may often be of assistance.

1. Election Method - Initiated by petition
2. Election Method - Initiated by resolution
3. Direct Petition Method:

a. ~~First and second class cities and towns are required to receive signed petitions from property owners which represent at least 75% of the total assessed property value of the area proposed for annexation. The most frequently used method of annexing territory in first and second class cities and towns is by petition by the owners of at least 60% of the property value in the area.~~

b. Code cities are required to receive signed petitions from property owners which represent at least 60% of the total assessed property value of the area proposed for annexation.

4. Alternative Petition Annexation Method (code city)
5. Municipal purposes method -All classes of municipalities
6. Federal owned Areas
7. Unincorporated Islands -Applicable to Code Cities Only

4.16.040 NOTICE TO REVIEW BOARD. If applicable, the city must submit an application to a boundary review board for their approval.

4.16.050 PUBLIC HEARING. Notice must be given of a public hearing specifying date, time, and place, of the hearing. At the public hearing the council or commission receives all oral and written protests, objections and evidence presented.

4.16.060 NOTICE TO COUNTY. If favorable, an ordinance is adopted and all pertinent information such as copies of the ordinance and maps are filed with the county legislative authority. (Send notice to county auditor, assessor and other officers requesting notice where legislative authority may not readily forward information.)

4.16.070 CERTIFICATE OF ANNEXATION. A certificate of annexation is filed with the State Office of Financial Management as soon as possible, not later than 30 days after the effective date of annexation.

4.16.080 NOTIFICATION REQUIREMENTS. Notice must be sent to:

- Washington State Department of Revenue;
- Telephone companies, refuse contractors, utility companies, etc;
- US Bureau of Census
- City or town departments

Chapter 4.18 PUBLIC DISCLOSURE

Sections:

- 4.18.010 History.
- 4.18.020 Reporting.
- 4.18.030 Contributions.
- 4.18.040 City Clerk responsibilities.

4.18.010 HISTORY. In November, 1972 Washington State voters approved Initiative 276 designed to place limitations on campaign spending and bring more openness and accountability by requiring public reporting of the personal financial affairs of candidates and office holders. The law requires that records be kept and reports of all contributions and expenditures filed.

The Public Disclosure Act followed close on the heels of the Open Public Meetings Act of 1971. Washington citizens were interested in open government and began to use the initiative process to enact policies and political reform when the legislature failed to do so.

4.18.020 REPORTING. All elected officials in cities or towns with more than 1,000 registered voters must file an F-1 or F-1A form with the Public Disclosure Commission between January 1 and April 15 of each year they hold office. If the term ends December 31 or in January, a final report is required by April 15. If a candidate filed a report in the year of candidacy and is subsequently elected to office, another report must be filed by April 15 and every year thereafter that he or she holds office.

If a local elected official resigns or is removed from office prior to the end of his term, a report must be filed by April 15 for the period he or she was in office. If appointed to fill a vacant elective office, the appointee must file an F-1 report within two weeks of the appointment. The F-1 form is used by persons completing their first report or by those ineligible to use the shorter F-1A form.

The F-1A form is used if no changes or only minor changes have occurred since the last report. If a complete F-1 report is on file with the Public Disclosure Commission, the F-1A form may be used for the next three successive reports if there have been no changes or only minor changes. A complete F-1 form must be filed at least every four years.

Candidates must report within two weeks of becoming a candidate. Candidates who already have a current F-1 or F-1A form on file because they are incumbents, or hold another position which makes them subject to the law, do not have to file a second report. A candidate is a candidate when he or she (1) first receives contributions or makes expenditures; (2) reserves space or facilities for the race; (3) publicly announces his/her candidacy; or (4) files for office. This reporting consists of an F-1 form (unless a current F-1 or F-1A form is on file) and a C-1 form, C-3 and C-4 forms are filed monthly, if necessary.

The Public Disclosure website has all of the reports and resources for elected officials at: www.pdc.wa.gov.

4.18.030 CONTRIBUTIONS. The campaign financing provisions of the public disclosure law do not apply in cities or towns that have less than ~~5,000~~ 1,000 registered voters, unless specifically required by local ordinance. The ~~Personal Financial Affairs Statement booklet from the Public Disclosure Commission~~ has many brochures and manuals available and most of these can be viewed online at www.pdc.wa.gov. ~~contains the most current information on reporting requirements. As of the 1994 legislative session, the contribution amount for identifying contributors was \$25.01. The names of persons pledging less than \$100 in the aggregate need~~

not be reported contributors.

4.18.040 CITY CLERK RESPONSIBILITIES. The Public Disclosure Commission emails reminders mails copies of the F-1 and F-1A forms to City Clerks for distribution to current elected officials. The city clerk is also contacted when elected officials have not filed in a timely fashion.

Chapter 4.20 BIDDING REQUIREMENTS

Sections:

- 4.20.010 Introduction.
- 4.20.020 When competitive bidding is required.
- 4.20.030 Lease with option to purchase.
- 4.20.040 Small works roster.
- 4.20.050 Exceptions to bidding requirements.
- 4.20.060 Architectural and engineering services.
- 4.20.070 Meaning of public work.
- 4.20.080 Cost of a public works project or purchase.
- 4.20.090 Breaking a public works project into segments.
- 4.20.100 Intergovernmental purchases and bidding.
- 4.20.110 Bidding when a brand name or patented item is desired.
- 4.20.120 Force account.
- 4.20.130 Purchases from the federal government.
- 4.20.140 Advertising for bids--notice.
- 4.20.150 Bid and performance bonds.
- 4.20.160 Bidding irregularities.
- 4.20.170 Action taken after bids are submitted and opened.
- 4.20.180 Change orders.
- 4.20.190 Lowest responsible bidder.
- 4.20.200 Conflict of interest.
- 4.20.210 Results of violation of bid statutes.

4.20.010 INTRODUCTION. Competitive bidding is designed to ensure that public contracts are performed satisfactorily and efficiently at the least cost to the public while avoiding fraud and favoritism in the awarding of such contracts. This chapter is designed to familiarize you with competitive bidding requirements and the procedures that should be observed to avoid pitfalls in the construction of public works and improvements, and in public purchasing. (See MRSC Report No. 35, New Bidding Book for Washington Cities & Towns.)

4.20.020 WHEN COMPETITIVE BIDDING IS REQUIRED. Public policy favors competitive bidding, and, in general, ambiguous statutes are construed in favor of requiring that procedure. However, competitive bidding procedures do not have to be followed except as required by statute, or by local charter provision or ordinance. Accordingly, the following outline is meant to deal only with those positive requirements.

First Class Cities. Competitive bid requirements applicable to first class cities were substantially revised by 1987 legislation. Previously all public works on improvements with an estimated cost in excess of \$10,000 (or \$15,000, for the construction of water mains) required a call for

competitive bids. Since July 26, 1987, though, new and presumably more liberal restrictions apply:

—1.— In first class cities, with a population of over 150,000, competitive bids are required for all public works projects costing over \$50,000, if more than a single craft or trade is involved. or over \$25,000, if only a single craft or trade is involved. Additional restrictions may apply; see paragraphs 3 and 4, below.

—2.— In first class cities with a population of 150,000 or less, competitive bids are required for all public works projects costing more than \$35,000, if more than a single craft or trade is involved, or costing more than \$20,000, if only a single craft or trade is involved. Additional restrictions may apply; see paragraphs 3 and 4, below.—

3.— Projects in any annual or biennial budget period equal in dollar value to ten percent or less of the city's public works construction budget, including any supplemental amounts, may be performed by city employees. Accordingly, any project valued in excess of the ten percent limit requires competitive bidding. The specific dollar limits discussed in paragraphs 1 and 2 may provide additional restrictions, even if the percentage limit is not exceeded. For example, if a first class city has a population of 50,000 and a \$500,000 public works construction budget, a multi-trade project costing \$36,000 would require bids, even though the ten percent limit is not exceeded. If the construction budget was \$100,000, any project costing over \$10,000 would require bids, since the percentage limit would produce the effective limit.—

4.— Whenever a first class city has had public works performed by city employees in any budget period up to the maximum permitted amount for that budget period.

Each first class city with a population of 150,000 or less must file a form prepared by the state auditor to account and record costs of public works in excess of \$5,000 not let by contract.

If the employees of any first class city perform public works in excess of the ten percent limit previously discussed, the amount in excess of the permitted amount is to be subtracted from the amount of public works otherwise permitted to be performed by city employees during the next budget period. If, after two years from the date of the excess work, the city has failed to reduce the amount of public works performed by its employees, the state must reduce motor vehicle fuel tax distributions to the city, retaining the withheld distribution until compliance is demonstrated to the state auditor.

There are certain bidding exceptions or special situations applicable to first class cities. For example, the cost of water services and metering equipment furnished by any first class city in the course of a water service installation, from the utility owned main to and including the meter box assembly, is not to be included in determining the cost of a public work or improvement. RCW 35.22.640 relieves first class cities from the bidding requirements of RCW 35.22.620 when the public work relates solely to electrical distribution and generating systems on public rights-of-way or on municipally owned property. Purchases by a first class city of supplies, materials, equipment, or services, not to be used in connection with any public work or improvement do not require a call for bids, at least under state law. Any bidding procedures to be followed in these instances are those provided, if at all, by city charter or ordinance. State bid provisions do not prohibit a first class city from allowing for preferential purchases of products made from recycled materials or products that may be recycled or reused.

All contracts between a first class city and contractors for any public work or improvement exceeding the above bid limits are required to contain the following clause:

"Contractor agrees that he shall actively solicit the employment of minority group members. Contractor further agrees that he shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of his compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses. The contractor shall be required to submit evidence of compliance with this section as part of the bids."

"Minority business" means a business at least 51 percent of which is owned by minority group members. Minority group members include, but are not limited to, "blacks, women, Native Americans, Asians, Eskimos, Aleuts, and Spanish Americans."

In addition, local ordinances and regulations and federal grant provisions may require active solicitation of women and minority business enterprises in the competitive bidding process and may further require that bidders include women and minority businesses as participant subcontractors or suppliers as part of their bids.

~~Second Class Cities and Towns. Second class cities and towns must call for bids whenever the cost of a public work, including the cost of materials, supplies, and equipment, will exceed \$30,000, if more than one craft or trade is involved, or \$20,000, if a single craft or trade is involved or if the project is one of street signalization or street lighting. When such a municipality purchases any supplies, materials, equipment, or services, other than professional services, costing more than \$7,500, which are not to be used in connection with any public work or improvement, it must call for bids in the same manner and under the same conditions as are required for a public work or improvement (if the cost thereof will exceed \$7,500).~~

~~Advertisement and competitive bidding may be dispensed with for purchases between \$7,500 and \$15,000, if the city or town legislative authority establishes a procedure by resolution for securing telephone and/or written quotations from vendors. The procedure must require quotations from enough vendors to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Immediately after the award is made, the bid quotations obtained are to be recorded and be open to public inspection, including by telephone inquiry.~~

~~Second class cities and towns must provide a report to the state auditor of the costs of all public works in excess of \$5,000 not let by contract.~~

~~The Single Unclassified, Territorial Charter City. Two cities, Union Gap and Waitsburg, continue to operate under their territorial charter. There are relatively few statutes that specifically regulate an unclassified city, and none that require competitive bids for public works or purchases. Without specific statutory bidding requirements, cities need not seek competitive bids. The Washington State Supreme Court has stated:~~

~~"We have heretofore, in common with the weight of authority, recognized that, in the absence of constitutional, statutory or charter requirement, authorized state or municipal contracts need not be let under competitive bidding."~~

~~Accordingly, unless the territorial charter of the unclassified city requires competitive bids, or the city has adopted a local policy requiring them, bids would not be required for either public works or purchases. (From a policy standpoint, though, it would probably be best to seek bids on some projects to assure that the city receives the best possible value.)~~

~~4.20.030 LEASE WITH AN OPTION TO PURCHASE. A lease of personal (or real) property with an~~

option to purchase may require competitive bids, dependent upon the cost of the property. RCW 35.42.220 requires a call for bids in accordance with RCW 35.23.352, if the cost of the property to be leased exceeds the amounts specified in RCW 35.23.352 (thus, \$7,500 for supplies, materials, and equipment). A lease of property without an option to purchase does not require a call for bids.

4.20.040 SMALL WORKS ROSTER. A city or town may use small works roster procedures for construction of a public work or improvement, as an alternative to ("in lieu of") general competitive bidding requirements, when the contract amount is \$100,000 or less. A small works roster lists contractors who have requested placement on the roster and who, where required, are properly licensed or registered to perform work in this state. At least twice a year, the municipality must publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster and solicit the names of contractors for such roster.

Once a roster has been developed and a city or town requires assistance for a qualifying public work or improvement, the city or town invites proposals "from all appropriate contractors" on the roster. Whenever possible, at least five contractors should be invited to submit bids. The invitation must include an estimate of the scope and nature of the work to be performed, and the materials and equipment to be furnished.

Once a bidder has been offered an opportunity to bid, that bidder is not to be offered another opportunity to bid until all other appropriate contractors on the roster have been offered such an opportunity. All cities and towns must use the small works roster procedures that are outlined in RCW 39.04.155.

The city or town must award the contract to the contractor submitting the lowest responsible bid. Immediately after the award is made, the bid quotations obtained must be immediately recorded, open to public inspection, and available by telephone inquiry.

The small works roster procedures are "in lieu of the procedures" for competitive bids on public works. Therefore, the specific requirements for the bidding procedure, such as those relating to the advertising for bids or to bid deposits, would not be applicable to small works roster contracts.

4.20.050 EXCEPTIONS TO BIDDING REQUIREMENTS. There are various exceptions to the previously discussed bidding requirements. It has been recognized, for example, that a municipality is not required to advertise for bids when there is an actual emergency, when the desired product is so monopolized that advertising for bids would produce only one bid, or if professional services are needed.

Qualifying neighborhood "self-help" projects may be constructed by a contracting association, such as the chamber of commerce, without regard to competitive bidding laws. Some pollution control facilities may likewise be exempt from competitive bidding requirements.

—1. —Emergencies. Certain emergency situations justify the making of a contract without adherence to bid requirements. Exceptions are sometimes made to the rule that when so required by statute or charter, municipal contracts must be let under competitive bidding. In case of an emergency, where it is essential to the health, safety, or welfare of the people that immediate action be taken, the requirement may be dispensed with. In Green v. Okanogan Co., 60 Wash. 309, 111 Pac. 226 (1910), while it was recognized that, in the event of an emergency, bidding might not be legally required, the court concluded that general population growth necessitating the construction of a bridge did not amount to an emergency. The court indicated,

however, that natural catastrophes or disasters, such as sudden floods, would perhaps amount to an emergency allowing the city to disregard the bidding statute.

RCW 35.22.620(6) also recognizes an exceptions to the bidding requirements for first class cities in the event of an emergency. It provides, in part:

When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

Several first class city charters also provide that the city may forego bidding procedures in the event an emergency exists.

RCW 38.52.070(2) authorizes political subdivisions in which major disasters occur (as defined in RCW 38.52.020 of the Washington Emergency Management Act), in the event of an extreme emergency, to forego compliance with statutory competitive bidding requirements.

If an emergency is found to exist, it has been recommended that the legislative body, by resolution, declare the emergency, recite the facts constituting the emergency, and waive the bid requirements. In first class cities the city council is to adopt a resolution certifying the existence of an emergency within two weeks of finding that an emergency existed. Even if bid requirements can be waived, it may be advisable to follow the bid procedures to the extent possible to assure the lowest possible price to the municipality and general fairness to competing contractors or suppliers.

—2. — Monopolies. It has been recognized in Washington Fruit & Produce Co. v. The City of Yakima, 3 Wn.2d 152, 103 P.2d 1106 (1940) that municipalities may also forego calling for bids when the desired product is subject to a natural monopoly and advertising for bids would result in only one bid. In that case the city of Yakima awarded a contract to a private utility company for the maintenance of overhead electrical street lighting without calling for bids. The resolution adopted by the commissioners recited the fact that the utility company had provided Yakima with electrical service for many years and that it was the only entity then capable of providing the city with that service. Since advertising for bids in such a situation would have been futile because it would produce only one bid, the court held that the City of Yakima did not violate the bidding requirements of its city charter by not calling for bids.

The monopoly exception appears to have been statutorily formalized by Ch. 120, Laws of 1987; that chapter adds the following language to RCW 35.23.352(9), applicable to second and third class cities and fourth class municipalities (towns) and to code cities with a population less than 20,000:

These requirements for purchasing [those of RCW 35.23.352(6) and (8)] may be waived by resolution of the city or town council which declared [sic] that the purchase is clearly and legitimately limited to a single source or supply within the near vicinity, or the materials, supplies, equipment, or services are subject to special market conditions, and recites why this situation exists. Such actions are subject to RCW 39.30.020 [relating to penalties for competitive bid violations].

There is no similar language in the first class city bidding statutes, presumably because first class cities are not statutorily required to seek competitive bids for purchases of supplies, materials, equipment, or services not connected with a public work.

—3. — Services. It is no longer necessary for any class of city to call for bids when contracting for

services. Since garbage collection is a service, it is not required that any class of city or town call for bids when contracting for garbage collection, recycling or solid waste handling services. Prior to the 1994 amendments to the bid law, only first class cities and code cities with a population over 20,000 were exempt from bidding for services. Other classes of cities and towns were only exempt from bidding for professional services. However, now it is no longer necessary to make a preliminary determination of whether the service in question is a professional service or not in order to determine if the bid law applies—all services are exempt from the bid law and may be negotiated.

—4. ~~Neighborhood "self-help" projects.~~ Cities and towns may contract with a chamber of commerce, a service organization, a community youth, or athletic association, or other similar association located in and providing service to the immediate neighborhood, for the construction of neighborhood improvements, without regard to competitive bidding laws. The contracting association may draw the design plan, make park or public square improvements, install equipment or artwork, or provide maintenance services for the facility as a community or neighborhood project, and may be reimbursed by the city or town for its expenses. The consideration received by the municipality (improvements, artwork, etc.) must at least equal three times the city or town's payment to the association. Payments for all contracts made by a city or town to neighborhood associations may not exceed \$25,000 or two aries, whichever is greater, in any year.

—5. ~~State or county construction or repair of streets.~~ A city or town may, by resolution of its legislative body, authorize the county in which it is located to construct, repair, or maintain a city street. The city or town pays the "actual cost" of the work, with the payment being deposited in the county road fund. The State Department of Transportation may also, "in certain special cases," agree to perform work or services for a city or town, reimbursing the motor vehicle fund for the cost of the project. Neither an agreement with the county nor the state, requires competitive bids.

—6. ~~Pollution Control Facilities.~~ Chapter 70.95A RCW, relating to pollution control facilities and enacted in 1973 may offer an important exception to bidding requirements. Although the primary emphasis of the chapter appears to relate to financing pollution control facilities, one section may exempt certain projects from any bidding requirements that might otherwise apply. RCW 70.95A.090 states in part:

"The [pollution control] facilities shall be constructed, reconstructed, and improved ... in the manner determined by the governing body in its sole discretion and any requirement of competitive bidding, lease performance bonds or other restriction imposed on the procedure for the award of contracts for such purpose ... is not applicable to any action taken under authority of this chapter."

The term "facility" is defined to mean "any land, building, structure, machinery, system, fixture, appurtenance, equipment or any combination thereof ... which is used or to be used ... in furtherance of the purpose of abating, controlling, or preventing pollution." "Pollution" is defined broadly to include water pollution, land pollution, solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

Although there have not been any relevant appellate court decisions or attorney general opinions on the statute, it would appear that its terms could be used to avoid bidding whenever a city or town constructs or reconstructs a building or structure or acquires fixtures or

equipment which will be used for pollution control. Given the broad scope of the statute, this exception to the bid laws could be far-reaching. However, in view of the lack of appellate or other authority regarding the chapter's use and the presumed fact that its provisions are seldom used, caution is suggested before a city or town decides to make use of its provisions. If chapter 70.95A RCW is used, it is suggested that the requirement of RCW 70.95A 100, relating to a department of ecology certificate, be followed.

~~4.20.060 ARCHITECTURAL AND ENGINEERING SERVICES.~~ Although it is clear that architectural and engineering services are professional in character and thus are not covered by competitive bidding provisions, contracts for such services may only be negotiated after following the procedures set out in Ch. 39.80 RCW.

Ch. 39.80 RCW requires that a city or town publish its need for architectural or engineering services in advance, concisely stating the general scope and nature of the project or work for which services are required. The notice must also provide the address of a representative of the city or town who can provide additional details. Compliance with this requirement may be accomplished by either: (1) publishing an announcement each time the service is needed or (2) announcing generally to the public the city's or town's projected requirements for any category or type of engineering or architectural service.

Cities and towns are to encourage architectural and engineering firms "engaged in the lawful practice of their profession" to annually submit a statement of qualifications and performance data. The city or town then evaluates the qualifications and performance data it has on file along with that submitted regarding a proposed project. Procedures and guidelines are to be developed "to insure that minority and women-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services."

The city or town next conducts discussions with one or more firms "regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services. The city or town then may select from among the firms the firm "most highly qualified to provide the services required. The price or cost of the service may not be considered by the city when determining which firm is the "most highly qualified." Once the "most qualified firm" has been determined, the city or town may negotiate a contract for the services at a price which the city or town determines is fair and reasonable. Price may only be considered when negotiations are conducted with the "most qualified firm." In reaching its determination, the municipality "shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature thereof." If a satisfactory contract cannot be negotiated, negotiations are to be formally terminated with the firm and another firm, following the above procedure, selected. The process continues until an agreement is reached or the search is terminated.

The process outlined above for the procurement of architectural or engineering services may be dispensed with upon a finding by the city or town that "an emergency requires the immediate execution of the work involved."

~~4.20.070 MEANING OF PUBLIC WORK.~~ As has already been mentioned, RCW 35.23.352, 35.22-620 and 35A.40.210 require competitive bidding for public works or improvements when the total cost of such work is in excess of a certain dollar minimum. What is the meaning of "public work" as used in these statutes? RCW 39.04.010 defines the term "public work" as follows: "The term public work shall include all work, construction, alteration, repair or improvement executed

at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein, but nothing herein shall apply to the construction, alteration, repair or improvement of any municipal street railway system." (Underscore supplied)

It is noteworthy that this definition of public work includes construction and repair but excludes ordinary maintenance. For example, replacing an old worn out bridge or roof would amount to a repair or perhaps a new construction, but not maintenance, and therefore would be considered to be a public work. On the other hand, servicing a sewer system or cleaning a roof would involve maintenance and therefore would not be a public work and consequently not within the purview of the public works bid statutes. The term "public work" has generally been held to include such things as sewer systems, water systems, drainage systems, public buildings and fixtures therein, and construction and repair of streets and roads, all when for public use.

4.20.080 COST OF A PUBLIC WORKS PROJECT OR PURCHASE. The question often arises as to what is to be included in estimating the total cost of each public works project in determining the applicability of the bidding requirements. RCW 35.22.620(5) provides that, in determining the cost of a separate public works project for first class (and large code cities), all amounts paid for materials, supplies, equipment, and labor on the construction of that project should be included. RCW 35.23.352(5), applicable to second and third class cities, smaller code cities, and fourth class municipalities (towns), provides that the cost of a separate public works project includes all cost of materials, supplies, equipment and labor.

Inclusion of sales and use tax. Normally sales tax applies to every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons, including those who install, repair, clean, alter, improve, construct, or decorate real or personal property. Thus the tax should be included in determining the cost of an item or project.

The sales tax and use tax apply to most public works projects, with specific exemptions. Some exemptions include:

- Labor and services rendered for the building, repairing, or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle owned by a city or town.
- Labor and services for the processing and handling of sand, gravel, and rock taken from city pits and quarries when the material is for publicly owned road projects.
- The original acquisition and installation of a pollution control facility may be exempt from sales and use taxes. Servicing, maintenance, repairs and replacement of parts after the facility has been completed and placed into operation are subject to the sales and use tax.

4.20.090 BREAKING A PUBLIC WORKS PROJECT INTO SEGMENTS. Municipalities may not break a public works project into phases to avoid compliance with bidding statutes. RCW 35.22.630, which relates to first class cities, provides in part:

"The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount prescribed in RCW 35.22.620 [for first class cities] is contrary to public policy and is prohibited."

RCW 35.22.620(3) relating to first class cities and larger code cities, and RCW 35.23.352(1) relating to other classes of cities and towns, provide similarly; both restrict the division of a

project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

It has been held that a city cannot break a public work into phases, even though those phases are performed at different intervals of time, for the purpose of estimating the cost of a public works project. Instead a city, while accomplishing the actual project in phases, must total the cost of all phases of the public work and, if the aggregate cost exceeds the applicable bid limit, bid each phase of the public work even though a given phase may cost less than the bid limit by itself.

~~4.20.100 INTERGOVERNMENTAL PURCHASES AND BIDDING.~~ No bidding is required when cities and towns enter into certain contracts with counties under RCW 47.24.050 for the latter to do work for cities and towns. This statute allows a city or town to enter into an agreement with a county whereby the county constructs, repairs, or maintains a city street. RCW 36.75.200 provides that a county may expend funds for the repair, maintenance, or construction of any bridges within the corporate boundaries of a city if the bridge is essential to continuation of the county road system.

~~A city or town may acquire used surplus property from another government entity without regard to bid laws. RCW 39.33.010 authorizes such purchases "on such terms and conditions as may be mutually agreed upon by the proper authorities."~~

~~RCW 39.34.080, a section of the Interlocal Cooperation Act, authorizes one public agency to contract with another public agency to perform any function which each agency is authorized by law to perform. Under this statute one public entity (e.g., the state) could act as agent or contractor for one or more public entities (e.g., cities or towns). RCW 39.34.030, another section of the Interlocal Cooperation Act, authorizes cooperative action, including joint purchases, by different governmental entities. Municipalities frequently use the authority granted in RCW 39.34.030 for making purchases through the state department of general administration. Municipalities thus realize savings through quantity purchasing. In order to make such purchases, a municipality must enter into a written agreement (an intergovernmental cooperative purchasing agreement) with the state department of general administration, a copy of which is filed with the secretary of state, the city or town clerk, and the county auditor. The purchasing division of the department of general administration then sends to the municipality lists of contracts which have been entered into by that department with suppliers (vendors), and which the municipality is eligible to use. These contracts are general in nature and are obtained by the department of general administration with the vendor agreeing to provide the same items to municipalities under the same terms and conditions as provided to state agencies. An indispensable element in such contracts is compliance with the purchasing statutes including the bid law applicable to each public entity which is an ultimate purchaser under the agreement. Accordingly, it is necessary for a city or town to enter into a joint purchase agreement with the government entity in advance of the government entity's agreement with the vendor to assure that all statutory or local bidding requirements are followed.~~

~~If a municipality decides to make a purchase under one of the listed contracts, it notifies the Department of General Administration (GA) of its intent to do so and the department sends the municipality a copy of the particular contract. The contract contains instructions on the procedures used to make purchases. Under most contracts, the purchase is made by the city or town directly from the vendor. In some cases, with respect to the purchase of motor vehicles, for~~

example, GA requires the purchase be made through GA.

~~4.20.110 BIDDING WHEN A BRAND NAME OR PATENTED ITEM IS DESIRED.~~ Cities and towns may advertise for bids by specifying a particular brand name item so long as the responsible municipal officer or officers have exercised their judgment and determined that a certain brand name is of higher quality or is better suited to the municipality's needs. In Smith v. City of Seattle, 192 Wash. 64, 72 P.2d 588 (1937), the city advertised for bids for incandescent lamps, specifying a particular brand. In a suit brought by a maker of a similar lamp, the court stated that as long as the officials involved exercised their discretion in determining that a particular brand of lamps was more desirable, the city's procedure was proper in the absence of abuse of discretion or fraud. In this case, the fact that the city had used the specified lamps previously and they had performed satisfactorily provided a rational basis for city authorities to limit the bid advertisement to that specified brand of lamps and the court found no abuse of discretion. There is no requirement that the bid specifications naming a particular brand also include a phrase such as "or an equal brand." It would seem, then, that the proper authorities of a municipality may advertise for a particular brand when that brand is best suited to the municipality's needs or when from past experience they can be more confident that it fits the municipality's needs.

~~4.20.120 FORCE ACCOUNT.~~ Prior to September 21, 1977, second, third, and fourth class municipalities could do virtually any public works project by force account (that is, by use of city or town employees or day labor to perform the work) by simply calling for bids and rejecting them after making a bona fide decision that the municipality could accomplish the work for less cost than the lowest responsible bid submitted. Ch. 41, Laws of 1977, however amended RCW 35.23.352 and greatly restricted the ability to do work by force account. The 1977 limits were eased by 1987 legislation which somewhat expanded the ability of a city or town to do public works by force account, by raising the limits above which competitive bids are required.

—1.— A second class city, a town, or a code city of less than 20,000 population can still accomplish a public works project by force account if its cost is \$20,000 or less if only one craft or trade is involved, or \$30,000 if more than one craft or trade is involved.

—2.— A second class city, a town, or a code city of less than 20,000 population may construct a public work or improvement having an estimated cost in excess of the above limits by force account when the city has first called for bids but no responsive bids have been received, or it may negotiate a contract for a public work or improvement without a further call for bids when bids have been called for but none have been received. (In AGO 1977 No. 18, it was observed that a bid which, by its terms, is not responsive to the call is, in reality, no bid at all.)

—3.— A second class city, a town, or a code city may no longer construct by force account a public work or improvement having an estimated cost in excess of the stated limits, when bids have been received but all such bids have been rejected. Under such circumstances, if it desires to proceed with the project it must make a second call for bids.

The statutes applicable both to first class cities and code cities with a population of more than 150,000 now require bids, when a public work or improvement project costs more than \$25,000, if only one craft or trade is involved (\$50,000, if more than one craft or trade), or ten percent of the public works construction budget, whichever is less. For first class cities and code cities with a population of 150,000 or less, bids are required for projects costing over \$20,000 if only one craft or trade is involved (\$35,000 if more than one craft or trade), or ten percent of the public

works construction budget, whichever is less. Thus, first class cities and larger code cities can accomplish public works projects by force account when they cost less than the bid limits, but when the estimated cost of the project exceeds those limits, the work must be done by contract pursuant to competitive bidding.

RCW 39.04.020 is a notice statute and not a bid statute. It requires that notice be published in a legal newspaper of general circulation 15 days prior to the beginning of any public work performed by force account costing more than \$15,000. Also, whenever public work is accomplished by force account, a full record of the kinds of work performed and the costs of such work must be kept. First class cities and code cities with a population of 20,000 or more must annually report to the state auditor their total public works construction budget and supplemental public works construction budget for the year (or biennium, if biennial budgeting is used), the total construction cost of public works performed by force account for the period, and the amount of public works performed by force account above and below ten percent of the total construction budget.

A special rule applies to local improvement projects. If all of the bids received on a project exceed the preliminary cost estimates by ten percent, the city or town may make the improvement itself, using its own employees.

Each city and town with a population of 150,000 or less must report the costs of all public works in excess of \$5,000 not let by contract.

The allocation of public works projects to be performed by city or town employees is not subject to a collective bargaining agreement.

4.20.130 PURCHASING FROM THE FEDERAL GOVERNMENT. State bid laws arguably do not apply to purchases made by a city or town from the federal government. RCW 39.32.070 provides in part as follows:

"The State of Washington ... and all counties, cities, towns, and other political subdivisions thereof, [are] hereby authorized to enter into any contract with the United States of America, or with any agency thereof, for the purchase of any equipment, supplies, materials, or other property, without regard to the provisions of any law requiring the advertising, giving of notices, inviting or receiving bids, or which may require the delivery of purchases before payment, and to this end ... the executive authority of any city or town, may designate by appropriate resolution or order any office holder or employee of its own to enter a bid or bids on its behalf at any sale of any equipment, supplies, materials or other property real or personal owned by the United States of America or any agency thereof..." (Underscore supplied.)

RCW 39.32.080 suspends any provision of law, charter, ordinance, resolution, bylaw, rule or regulation to the extent that it is inconsistent with RCW 39.32.070, and RCW 39.32.090 empowers any political subdivision of the state "to purchase supplies, materials, and/or equipment from or through the United States government without calling for bids, notwithstanding any law or charter provision to the contrary." RCW 39.32.090 requires that the purchase be "authorized by ordinance or resolution" of the legislative authority.

The statutes referenced above were enacted in 1945. In 1979 RCW 35.23.352 (providing bid requirements for second, third, and fourth class municipalities and, by reference, for code cities with a population of under 20,000) was amended, adding the following indicated proviso to section (6):

"Any purchase of supplies, material, equipment or services other than professional services,

except for public work or improvement, where the cost thereof exceeds two thousand dollars shall be made upon call for bids: ~~Provided, That the limitations herein shall not apply to any purchases of materials at auctions conducted by the government of the United States, any agency thereof or by the state of Washington or a political subdivision thereof.~~" (Underscore supplied.)

Presumably reference to auctions by the United States government should not be necessary in this latter enactment, in view of the language of RCW 39.32.070, discussed above. Does the proviso language suggest that other types of purchases from the United States government require compliance with the bid laws? There are no court decisions or Attorney General opinions construing the language of the two, somewhat disparate, provisions and thus, at least for the time being, whether bids are required for purchases from the United States government and its agencies (other than at auctions) is unclear.

~~4.20.140 ADVERTISING FOR BIDS – NOTICE.~~ RCW 35.23.352(1), in regard to contracts for which bids must be called, was amended in 1994 and provides, in part:

~~"All such contracts shall be let at public bidding upon posting notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will be received."~~

RCW 35A.40.200 requires that code cities make contracts in accordance with the procedures and conditions provided by RCW 35.23.352, relating to competitive bidding for public works. This indicates that when code cities are advertising for bids for public works or improvements as required by RCW 35.23.352, they must follow the procedures prescribed in RCW 35.23.352 relating, inter alia to notice. In addition RCW 35A.65.020, which is also applicable to code cities, provides:

The publication of a legal notice required by general law or by a code city ordinance shall be in a newspaper of general circulation within the city having the qualifications prescribed by chapter 65.16 RCW and shall be governed by the provisions thereof as the same relate to a city of any class.

Ch. 65.16 RCW specifies the qualifications of a legal newspaper. To be a legal newspaper a publication must be so approved by an order of the superior court and possess the following qualifications: (1) it must be published at least once per week, (2) it must be in English, (3) it must be published regularly, (4) it must hold a second class mailing permit, (5) it must contain news of general as opposed to special or particular interest, and (6) it must have been published for at least six months prior to its petition to the superior court for approval as a legal newspaper. Code cities, then, must publish notice as set forth in RCW 35.23.352 and RCW 35A.65.020 in a legal newspaper which is also the city's official newspaper and, as well, post such notice in a public place in the city.

RCW 35.23.352(1) requires that notice be published at least thirteen days prior to the last date on which bids will be received. Prior to 1993, it was required that notice be posted and also that notice be published at least once a week for two consecutive weeks before the bid opening. These are no longer statutory requirements.

The first class city bid statute, RCW 35.22.620, provides that any public work "shall be performed by contract pursuant to public notice and call for competitive bids." (Underscore supplied)

~~4.20.150 BID AND PERFORMANCE BONDS.~~ Bid bonds are required in order to guarantee that a

bid has been made in good faith and to ensure that the bidder will enter into a contract if his or her bid is accepted. RCW 35.23.352 provides, in part:

"Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit."

In the case of second class cities and towns, a bid bond of five percent of the total bid price must be submitted. Code cities under 20,000 in population must also comply with this requirement when they advertise for bids for public works projects by virtue of RCW 35A.40.200 which requires code cities to call for bids in accordance with the procedure and subject to the conditions provided by RCW 35.23.352 for bids for public works projects. There is no similar statutory requirement for first class cities in RCW 35.22.620, the first class city bid statute, but several city charters as well as city ordinances require that bid bonds or deposits of five percent of the bid be submitted.

After bids are opened and the contract is awarded to the lowest responsible bidder as required by RCW 35.23.352, the bid proposal deposits or bid bonds are to be returned to the unsuccessful bidders. The successful bidder's bid bond or deposit is retained until the bidder enters into a contract with the municipality and furnishes a performance bond in the full amount of the contract price. If the successful bidder fails to enter into a contract with the municipality and to provide a performance bond within ten days of being notified of his or her bid's acceptance, the bidder is required to forfeit the bid bond or deposit, as the case may be. RCW 39.08.010 provides that a municipality must require a performance bond whenever it enters into a contract to ensure that the job will be completed and all laborers, mechanics, subcontractors, and material men will be paid. RCW 39.08.015 subjects the municipality to claims of laborers, material men, subcontractors, and mechanics if city officials fail to obtain the required performance bond.

4.20.160 BIDDING IRREGULARITIES. Advertisements for bids should set forth definite specifications and procedures for bidders to use in estimating their bids. There must be substantial compliance with the applicable specifications if a bid is to be considered. However, an insubstantial variance with certain specifications or bidding procedure will not prevent a municipality from considering a bid. As a general rule, an immaterial or insubstantial variance is one which fails to give one bidder a substantial advantage over the others. For example, in Rhine, Inc. v. Tacoma, 13 Wn. App. 597, 536 P.2d 677 (1975), the court held that the late filing of a bid bond was an insubstantial variance which could be waived by the municipality because it did not give the late bidder an advantage over the other bidders.

On the other hand, it was held in AAB Electric v. Stevenson Public School District 5 Wn. App. 887, 491 P.2d 684 (1971), that failure to sign a bid was a material variance which justified the city in rejecting the bid even though it was the lowest bid submitted. The court noted that this defect would give the bidder who failed to sign the bid an advantage over the other bidders. By not signing the bid, the bidder was not liable to forfeit his bid bond, while the other bidders who had properly signed their bids could forfeit their bid bonds, if their bid was accepted and they failed to enter into a contract with the city. Failure to include a certified women business enterprise (WBE) in a bid submitted, as required by the specifications, has been held to be a substantial variance, giving the bidder an advantage over other bidders, and providing good

cause to reject the bid.

Another problem occurs when a bidder submits an erroneous bid, and the bid is accepted. In general, no affirmative relief is usually given to bidders asking for reformation of the resulting contract, but some relief may be available in equity for those bidders rescinding the contract and asking that their bid bond not be forfeited.

For example, in J. J. Welcome & Sons Construction v. State 6 Wn. App. 985, 497 P.2d 953 (1972), the court refused to reform a contract based on a bid that was \$10,000 short as a result of a mistake made by Western Union in transmitting a telegram, even though the mistake wasn't noticed until after the bids were opened and before the bidder entered into a formal agreement. In Red-Samm Mining v. Port of Seattle 8 Wn. App. 610, 508 P.2d 1975 (1973), an erroneous bid was submitted as a result of a mistake made in totaling unit prices. The court refused to reform the resulting contract even though the bidder complained that he entered into a formal agreement under threat of suit by the Port of Seattle. Since the bidder had elected to accept the contract at the lower figure, the court concluded that, under these circumstances, it could not claim duress.

Bidders seeking to rescind the contract when there has been some mistake in their bid have been more successful. In Puget Sound Painters v. State, 45 Wn.2d 819, 278 P.2d 302 (1954), the low bidder submitted an erroneous bid as a result of a mistake made in estimating the cost of performing the proposed contract. After the bid was accepted, the bidder immediately realized the mistake and notified the state. The bidder was successful in an action to recover its bid bond. The court stated that the bidder can be relieved of his contractual obligations after submitting an erroneous bid if he meets the following requirements:

- (a) If the bidder acted in good faith, and
- (b) without gross negligence,
- (c) if he was reasonably prompt in giving notice of the error in the bid to the other party,
- (d) if the bidder will suffer substantial detriment by forfeiture and
- (e) if the other party's status has not greatly changed, and relief from forfeiture will work no substantial hardship on him.

A delay in seeking to avoid the contract because of an erroneous bid, however, may amount to a waiver and thus preclude rescission.

Certain types of mistakes, such as understating the cost of labor and materials or guessing as to the nature of the work, are purely judgmental and never entitle a bidder to equitable relief.

4.20.170 ACTION TAKEN AFTER BIDS ARE SUBMITTED AND OPENED. Generally, a municipality cannot negotiate with the bidders once the bids have been submitted and opened. It must then either accept one bid or reject all of them. (It should be noted, though, that a bid which does not meet the bid specifications need not be treated as a bid at all.) In Platt Electric Supply, Inc. v. the City of Seattle, et al., 16 Wn. App. 265, 555 P.2d 421 (1976), the City of Seattle invited bids on light bulbs. The advertisement for bids allowed the bidders to set their own specifications. Platt submitted the lowest bid and Seattle offered to award the contract to Platt if it would lower its bid. Platt refused. Seattle then negotiated with the fourth lowest bidder out of a field of seven, eventually awarding the contract to that bidder. Seattle's justification was that this bidder had a better warranty and was therefore the best bidder.

The Court of Appeals held the contract was void for either of two reasons: (1) the bidding laws were violated when the advertisement for bids allowed the bidders to set their own

specifications, and (2) the city of Seattle had negotiated with the bidders after the bids were submitted and opened. The court observed that both of these practices undermined the competitive bidding process. If the bidders were allowed to set their own specifications, the bids would not be comparable and there could be no objective criteria on which to award the contract. Negotiations with bidders after bidding has taken place undermines the fairness of the bidding process by not allowing all bidders to submit bids on the contract that is eventually awarded.

Challenges of Bid Award.— A challenge to a bid award can be brought by a taxpayer challenge. See Goss v. State Capital Commission, 11 Wash. 2d 25, 258 P. 836 (1927) and Mottner v. Mercer Island, 75 Wn.2d 575, 452 P.2d 750 (1969). The action would be to restrain the governmental body from entering into a contract beyond its authority. A cause of action for damages is not available to a disappointed bidder. See A-Line Equipment v. Columbia College, 49 Wn. App. 217, 741 P.2d 1057 (1987). A taxpayer, however, may seek to enjoin an improper award. Id.

4.20.180 CHANGE ORDERS. Any alteration to a project during construction that is not consistent with the bid specifications upon which the contract was awarded is a "change order." If, for example, during construction of a building foundation additional excavation work is required to avoid unstable soil conditions, the additional excavation is a result of a change in conditions, and the added cost to the contractor may be covered by a change order. If machinery anchors must be relocated to accommodate a piece of machinery that has been ordered, the relocation is a change order. If, during construction, a building must be redesigned to meet new federal or state standards, such as for access for the handicapped, the redesign and additional work is a change order. Conversely, reductions in work may result in a change order which will provide a credit to the city or town.

When does the additional work required by a change order require competitive bids? There is no Washington authority on this issue, and the authority from other jurisdictions appears to be split as to the need for competitive bids. However, according to one legal commentator, the "better cases" favor the position that bids are not required when unforeseen extra work becomes necessary under a valid preexisting contract. In Home Owners Construction v. Glen Rock, 34 NJ 305, 169 A.2d 129, 134 (1961), it is stated for example:

"In the course of a construction contract, bona fide emergencies may well arise and incidental alterations may well be required. When the resulting additional expenditures are reasonable and are conscientiously viewed as being in fulfillment of the original undertaking rather than as departing therefrom, it would clearly be contrary to the public interest to halt the undertaking and call for bidding with respect to the additional work entailed by the emergency or incidental alteration."

Citing the above case, Antieau comments:

"Bid requirements should not be construed so strictly as to divest a local government of the power to let extra work required by unanticipated developments in the performance of a construction contract, or to make minor changes and additions after a contract has been awarded. If the local government has no latitude whatever in authorizing changes in materials or small additions when necessary or desirable, the public interest may well be jeopardized." (Citations omitted.)

Antieau, however, does recognize authority to the contrary and that there must be some limitations placed on change orders not requiring bids:

"The generally accepted rule is that where a statute requires that a contract for public work shall be let to the lowest responsible bidder, a municipal corporation cannot evade the law by making substantial changes in the contract after it has been awarded pursuant to the law. Any substantial and material departure from the specifications, beneficial to the successful bidder, in the contract entered into will render it void The general principle has been stated by the Maryland court:

Deviations from a contract ... must be based upon honest, reasonable and intelligent judgment and must not vary so substantially from the original plan as to constitute a new undertaking, where fairness could be secured only by competitive bidding.

Each change order, accordingly, must be reviewed separately to determine whether the proposed work is a substantial change from that contemplated in the bidding process. Does the work constitute a new undertaking or is it consistent with the scope of the original work? Does the work require experience or expertise beyond that required in the original contract? Without better (or any) direction from the Washington courts, each questionable change order should be submitted to the city or town attorney for review.

~~4.20.190 LOWEST RESPONSIBLE BIDDER.~~ After bids are submitted and opened, a decision must be made to award a contract or to reject all bids. RCW 35.23.352, as amended, requires that contracts in excess of certain limits be awarded to the lowest responsible bidder for a public works project or for the purchase of materials, equipment, services other than professional services, or supplies. There is no such specific requirement for first class cities; however, various city charters require that contracts be awarded to the lowest responsible bidder, the lowest and best responsible bidder, the lowest and best bidder, or the lowest most responsible bidder. In determining who is the lowest responsible bidder, the city council or commission is given discretion. Its decision, if bona fide, will not be subject to interference by the courts unless it amounts to an abuse of discretion or there is an indication of fraud. However, if the city council or commission awards a contract to a bidder other than the lowest bidder, it is desirable practice to have a finding of fact entered in the council minutes or other appropriate place stating the reasons for its action. Acceptable reasons include the skill of the bidders involved, whether the bidders possess the financial ability and the necessary labor and equipment to complete the contract, the general integrity, trustworthiness and promptness of the bidder, and any other particular reasons which a normal business would consider in determining whether an individual bidder was capable of completing the contract in the most satisfactory manner at the least cost to the municipality. Pursuant to RCW 39.30.040, cities and towns may, in determining the lowest bid, consider the tax revenues that are generated by a purchase of supplies, materials and equipment, including those from a local sales tax or from business and occupation taxes measured by the gross receipts from the sale. The city or town must consider the taxes it would receive from suppliers located both within and without its boundaries. The bid award must be made to the lowest bidder after the tax revenue has been considered. Cities and towns may also give preference to products made of recycled materials or to products that may be recycled or reused. Other "local preferences," favoring local businesses in the award of a contract, are not allowed.

(While a city or town can determine whether a bidder is "responsible" after bids have been opened, it is not clear that a city or town can consider responsibility in advance of bidding, thereby limiting those who may bid. Prequalification of bidders is an open question in this state.)

4.20.200 CONFLICT OF INTEREST. Municipal contracts which may benefit a municipal officer are severely restricted. RCW 42.23.030 provides, in part:

"No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein."

Second and third class cities, towns, and non charter code cities may let contracts in which a corporate officer has an interest if the amount of such contract, although exceeding \$750 per month, does not exceed \$9,000 per year. Another exception to the prohibition of RCW 42.23.030 is the employment of any person for unskilled day labor by second and third class cities, towns, or non charter code cities, provided that their wages do not exceed \$100 per month. Unskilled labor is defined by Webster's Third New International Dictionary, Unabridged as "labor that requires little or no training or experience for its satisfactory performance." Some qualified and conditional exemptions are also made for "remote" interests; e.g., ordinary employment of a municipal officer by a contractor for salary or wages.

RCW 42.23.050 provides that any contract made in violation of RCW 42.23.030 is void. Any officer who violates RCW 42.23.030 is subject to a civil penalty of \$300 and a forfeiture of his or her office.

4.20.210 RESULTS OF VIOLATION OF BID STATUTES. Any contract made in violation of the bid requirements of RCW 35.23.352 or RCW 35.22.620, or of a particular city charter or ordinance, is illegal and void. A municipality may subject itself to liability if a contractor wholly or partially performs a void contract. In Edwards v. city of Renton, 67 Wn.2d 598, 409 P.2d 153 (1965), the city violated the bid statute by allowing a private party to pay a contractor for the installation of a traffic control signal and agreeing to pay the party back as a part of the next year's budget. No call was made for bids. The city refused to reimburse the private party as agreed. A suit was brought for payment of the cost of the installation of the traffic control signal. The Washington Supreme Court recognized that the plaintiff could not recover under the contract because it was void; however, where there was no bad faith, collusion or fraud, the court allowed recovery for the reasonable value of the traffic control signal.

RCW 39.30.020 provides:

"In addition to any other remedies or penalties contained in any law, municipal charter, ordinance, resolution or other enactment, any municipal officer by or through whom or under whose supervision, in whole or in part, any contract is made in willful and intentional violation of any law, municipal charter, ordinance, resolution or other enactment requiring competitive bidding upon such contract shall be held liable to a civil penalty of not less than three hundred dollars and may be held liable, jointly and severally with any other such municipal officer, for all consequential damages to the municipal corporation. If, as a result of a criminal action, the violation is found to have been intentional, the municipal officer shall immediately forfeit his office. For purposes of this section, "municipal officer" shall mean an "officer" or "municipal officer" as those terms are defined in RCW 42.23.020(2)." (Underscore supplied)

Municipal officer is defined in RCW 42.23.020(2) as:

"All elected and appointed officers of a municipality, together with all deputies and assistants of such an officer, and all persons exercising or undertaking to exercise any of the powers or

functions of a municipal officer."

RCW 39.30.020, quoted above, subjects municipal officers to a civil penalty in at least some instances when the competitive bidding statutes or ordinances are violated. It should be noted that it requires an "intentional and willful" violation in order to subject the municipal officers to a civil penalty. There is no clear indication of what must be shown to find an intentional and willful violation. It will probably require at least prior knowledge of the violation on the part of the municipal officer involved. Finally, in those instances where the officer is subject to criminal action, he or she will forfeit office.

First class cities and code cities with a population of 20,000 or more may have twenty percent of their motor vehicle fuel tax distributions withheld if public works projects performed by city forces exceed ten percent of the public works construction budget and the city fails to reduce the amount of work so performed within two years of the violation.

Chapter 4.24 CONTRACTS--AGREEMENTS

Sections:

4.24.010 Contracts and agreements generally.

4.24.020 Public works contracts.

4.24.010 CONTRACTS AND AGREEMENTS GENERALLY. The city clerk is responsible for maintaining contract and agreement files for all city departments. Contracts may be for construction of public works improvement projects, professional services, maintenance of city facilities, interlocal cooperative agreements for service provision, agreements to waive a property owner's right to protest a future assessment district, and a variety of other subjects. Whatever the department of origin, it is a good idea to keep all contracts and agreements located in the city clerk's office, filed and cross-indexed so that agreements can be located easily and referenced by staff and the public.

All contracts and agreements should be reviewed by the city attorney and approved "as to legal form"; in addition, most cities have only one city official sign all agreements and contracts, usually the mayor or city manager. The contract should be executed in duplicate and one original kept by the city clerk, with the other forwarded to the other party to the agreement. Copies of the executed agreement should be made and sent to the department of origin plus the finance department if the agreement has monetary implications.

Whether an agreement needs to be approved by the legislative body or by the city's administration depends on the nature of the agreement and your city's policy. Some cities authorize the chief administrative officer to execute professional service agreements if the amount does not exceed specified dollar limits. Interlocal agreements almost always require legislative approval. Public works contracts in excess of a specified dollar limit (see the chapter on bidding in this handbook) require award by the legislative body.

4.24.020 PUBLIC WORKS CONTRACTS. Public works contracts usually contain the following documents, some of which constitute the original contract document package and some of which are furnished after the contract is awarded:

- Call for sealed bids
- Bid specifications

- Instructions to bidders
- General provisions
- Bid proposal form
- Bid bond form
- Equal opportunity statement
- Affidavit of non-collusion
- Affidavit of nondiscrimination
- Affidavit of minimum wage
- Performance bond form
- Power of attorney form
- Certificate of insurance with specified limits and naming the city as an additional insured
- Copy of state contractor's license
- Copy of city business license
- Contract agreement form

The clerk should coordinate with the project administrator concerning who should retain the pertinent documents.

Once the public works contract is executed and any changes initialed by all parties, the notice of award of contract is sent to the Department of Labor and Industries and Department of Revenue. After the contract work is completed, a sixty-day lien period commences. If, after the end of the 60-day period, no liens or claims have been filed against the contractor, and after the city receives evidence from the Department of Labor and Industries and Department of Revenue that the contractor has paid prevailing wages and all Department of Revenue tax liabilities are satisfied, the city can release the retainage to the contractor.

Updated:

Chapter 4.20 BIDDING REQUIREMENTS

Sections:

- 4.20.010 Introduction.
- 4.20.020 Public works contracting and purchasing
- 4.20.030 Lease with option to purchase.
- 4.20.040 Small works roster.
- 4.20.050 Exceptions to bidding requirements.
- 4.20.060 Architectural and engineering services.
- 4.20.070 Meaning of public work or "is maintenance public works?"
- 4.20.080 Cost of a public works project or purchase.
- 4.20.090 Breaking a public works project into segments.
- 4.20.100 Intergovernmental purchases and bidding.
- 4.20.110 Bidding when a brand name or patented item is desired.
- 4.20.120 Work by agency forces (or day labor).
- 4.20.130 Purchases from the federal government.
- 4.20.140 Advertising for bids--notice.
- 4.20.150 Bid and performance bonds.
- 4.20.160 Bidding irregularities.

- 4.20.170 Action taken after bids are submitted and opened.
- 4.20.180 Change orders.
- 4.20.190 Lowest responsible bidder.
- 4.20.200 Conflict of interest.
- 4.20.210 Results of violation of bid statutes.

4.20.010 INTRODUCTION.

Competitive bidding is designed to ensure that public works contracts and purchases are performed satisfactorily and efficiently at the least cost to the public while avoiding fraud and favoritism in the awarding of such contracts. This chapter is designed to familiarize you with competitive bidding requirements and the procedures that should be observed to avoid pitfalls in the construction of public works and improvements and in public purchasing. (See [MRSC Report No.52, The City Bidding Book.](#))

4.20.020 PUBLIC WORKS CONTRACTING.

Public policy favors competitive bidding for public works contracting, and, in general, ambiguous statutes are construed in favor of requiring that procedure. However, competitive bidding procedures do not have to be followed except as required by statute, or by local charter provision or ordinance. Accordingly, the following outline is meant to deal only with those positive requirements.

There are two sets of “bid limits” in the statutes:

1. Limits on the amount of work or project cost above which an agency cannot use its own forces or “day labor” hires to accomplish a public works contract.
2. Limits on the amount of work or project cost above which an agency must seek formal, competitive bids rather than informal bids or no bids at all.

Note this table:

Bid Limit Matrix			
Agency	RCW Cite	Contracting Bid Limits	Day/Agency Labor Limits
First Class Cities	RCW 35.22.620	None See City Bidding Book, Page 7	\$45K, \$90K
Code Cities, 2nd Class Cities and Towns	RCW 35.23.352	\$40K, \$65K	\$40K, \$65K
Counties Over 400K	RCW 36.32.235 & 250	\$40,000	\$45K, \$90K See County Bidding Book, Page 6
Counties Under 400K	RCW 36.32.240 & 250	\$40,000	None See County Bidding Book, Page 6

Purchasing limits, for buying goods, materials, supplies and equipment unrelated to a public works contract, are:

			Quotes Allowed	Vendor List Allowed (Note A)	Competitive Bids Required
Cities and Towns					
	First Class City Over 150,000		Purchasing policies are set by City Council.		
	First Class City Under 150,000		Purchasing policies are set by City Council.		
	Code City Over 20,000 (B)		Purchasing policies are set by City Council.		
	Code City Under 20,000 (B)		< \$7,500	< \$15,000	> \$15,000
	2nd Class City & Towns		< \$7,500	< \$15,000	> \$15,000
Counties					
	Over 400 K w/ Purchasing Department		< \$5,000	< \$25,000	> \$25,000
	Under 400 K w/ Purchasing Department		< \$5,000	< \$25,000	> \$25,000

Note A: See [RCW 39.04.190](#).

Note B: See [RCW 35A.40.210](#)

FIRST CLASS CITIES

1. In first class cities, competitive bids are required for all public works projects costing over \$90,000, if more than a single craft or trade is involved. If only a single craft or trade is involved, bids are required when the cost is over \$45,000. If the project is less than \$300,000, but more than these limits, the city may use a small public works roster process.
2. Whenever a first class city has had public works performed by city employees in any budget period up to the maximum permitted amount (10%) for that budget period, all remaining public works within that budget period must be done by contract pursuant to public notice and call for competitive bids, regardless of the individual project limits in paragraph 1.

There are certain bidding exceptions or special situations applicable to first class cities. Per MRSC, a strong argument could be made that bid laws are virtually non-existent for these cities, as explained below:

RCW 35.22.620 primarily places limits on when a city can use its own employees or day labor in the construction of a public works project. RCW 35.22.620(1) states:

A first class city may have public works performed by contract pursuant to public notice and call for competitive bids.

This language is permissive and does not in itself mandate competitive bidding. The only instance when bids are actually required is when the limits placed on the use of city employees are reached. Paragraph three of subsection (2) says:

Whenever a first class city has had public works performed in any budget period up to the maximum permitted amount of that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.

While not clear, it appears that the reference to "public works performed in any budget period up to the maximum amount" is to the maximum work (ten percent of the public works construction budget) that may be performed by city forces. That conclusion seems consistent with the other paragraphs of subsection (2), all of which relate to the use of public employees for the performance of public works projects. Subsection (3) of RCW 35.22.620 places additional restrictions on when city forces may be used in performing work. (This is the subsection that gives explicit dollar limits.) No reference is made to competitive bids.

Based on the above analysis, the following conclusions appear warranted under this alternative view: (1) for most projects, competitive bids are not required, although a city may call for them; (2) a city could, in most instances, use city employees for projects, as long as the limits on the use of city forces are not exceeded; and (3) a city may negotiate a contract for a public works project.

The use of city forces is limited both generally (may work on projects costing up to ten percent of the public works construction budget in any budget year) and specifically. For example, in first class cities, city employees may be used for any multiple craft or trade project that does not cost more than \$90,000, and on any single craft or trade project that does not cost more than \$45,000. Once city employees have been used on projects that cost ten percent of the construction budget in any budget period, all projects, regardless of their cost, must be put out for competitive bids.

Reporting and Notice Requirements.

First class cities must report to the state auditor yearly, indicating their total public works construction budget, supplemental public works construction budget, total construction costs of public works performed by public employees, and the amount of public works performed by

public employees above or below the permissible ten percent of the total construction budget. First class cities with populations less than 150,000 must report all public works in excess of \$5,000 that are not let by contract. Every city that uses its own forces on projects costing more than \$25,000 must public a description and the estimated cost of the project in its official newspaper, fifteen days before beginning the project.

Women's and Minority Business Enterprise (WMBE) Requirements

Presumably, all contracts entered into by a first class city for any public work or improvement exceeding \$10,000 (or \$15,000 for water mains) are required to contain the following clause:

Contractor agrees that he shall actively solicit the employment of minority group members. Contractor further agrees that he shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of his compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses. The contractor shall be required to submit evidence of compliance with this section a part of the bid.

It is doubtful this requirement continues to apply in view of the passage of Initiative 200 in 1998, now codified at RCW 49.60.400(1):

The state shall not discriminate against or grant preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

The term "preferential treatment" has not yet been defined. A strong argument could be made, however, that compliance with RCW 35.22.650 would constitute preferential treatment, especially if city disqualified a bidder for statutory noncompliance.

Minor Exceptions

The cost of water services and metering equipment furnished by any first class city in the course of a water service installation, from the utility owned main to and including the meter box assembly, is not be included in determining the cost of a public work or improvement.

RCW 35.22.640 relieves first class cities from the bidding requirements when the public work relates solely to electrical distribution and generating systems on public rights of way or on municipally owned property.

Material, Supplies and Equipment

Unlike the state statutes applicable to small jurisdictions, the first class city statutes and, by reference, those that govern code cities with a population of 20,000 or more do not require the city to seek competitive bids for purchase of materials, supplies and equipment not associated with a public work. Nevertheless, bidding requirements could still apply, if there are local requirements. It is recommended to review charter requirements, local ordinances and policies to determine whether bids must be sought for such purchases.

SECOND CLASS CITIES AND TOWNS.

Second class cities and towns must call for bids whenever the cost of a public work, including the cost of materials, supplies, and equipment, will exceed \$65,000, if more than one craft or trade is involved. If a single craft or trade is involved or if the project is one of street signalization or street lighting bids must be called for if the cost is greater than \$40,000

Second class cities and towns must provide a report to the state auditor of the costs of all public works in excess of \$5,000 not let by contract. For any project using city workers that cost in excess of \$25,000 a city must publish a description of the project and its estimated cost in its official newspaper at least fifteen days before beginning the work.

Material, Supplies, and Equipment

Any second class city, town, or code city with a population under 20,000 that purchases supplies, materials, or equipment costing more than \$7,500, which are not to be used in connection with any public work or improvement, must call for bids. Purchases by code cities with a population of 20,000 or more are governed by RCW 35.22.620; this referenced statute, though, does not require bids for the purchase of materials, supplies and equipment.

PREVAILNG WAGES

Payment of prevailing wages under [Chapter 39.12 RCW](#) in Washington State applies to public works contracts accomplished through competitive bidding or the small works roster: AND to smaller public works contracts for which telephone quotes were secured or for which the contractor was simply chosen for any number of good reasons: AND to maintenance contracts of any nature and for any amount, except for those considered by the Department of Labor and Industrial Services to be ordinary maintenance. DLIS has defined ordinary maintenance as work done by an agency's own forces "to keep existing facilities in good usable, operational condition."

Note these points:

- Contractor must be told in advance that prevailing wages must be paid to all employees who work on the contract.
- Contractor must be given a copy of the prevailing wages in effect for the contract OR the agency may now simply provide a link to the [applicable prevailing wage listing](#) on the DLIS website.
- Contractor (and subcontractors) must file a Statement of Intent to Pay Prevailing Wages with the Industrial Statistician of the Department of Labor and Industrial Services (DLIS). The City must have a copy of the DLIS-approved Statement of Intent before it can make payments under the contract.
- After completion of the contract, the contractor must file an Affidavit of Wages Paid with the Industrial Statistician of the Department of Labor and Industrial Services (DLIS). The City must have a copy of the DLIS-approved Affidavit before it can release the contract retainage.

TELECOMMUNICATIONS AND DATA PROCESSING EQUIPMENT AND INSTALLATION

When purchasing telecommunications and data processing (computer) equipment or software costing above that amount, all municipalities may follow a "competitive negotiation" process as an alternative to the bid process. Recognizing the unique aspects of computer and telecommunication systems, the legislature established an alternative process for making such purchases. [RCW 39.04.270](#) allows purchases through use of an alternative competitive negotiation process requiring, at a minimum, the following steps:

- A request for proposals (RFP) must be published in a newspaper of general circulation at least 13 days before the last date on which the proposals will be retrieved.
- The RFP must identify significant evaluation factors, including price, and their relative importance.
- The municipality must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and selection for awarding the contract.
- The award must be made to the qualified bidder whose proposal is "most advantageous" to the city. A city may reject all proposals for good cause and request new proposals.

The Single Unclassified, Territorial Charter City.

Only one Washington city, Waitsburg, still operates under its territorial charter. There are relatively few statutes that specifically regulate an unclassified city, and none that require competitive bids for public works or purchases. Without specific statutory bidding requirements, cities need not seek competitive bids. The Washington State Supreme Court has stated: "We have heretofore, in common with the weight of authority, recognized that, in the absence of constitutional, statutory or charter requirement, authorized state or municipal contracts need not be let under competitive bidding."

Accordingly, unless the territorial charter of the unclassified city requires competitive bids, or the city has adopted a local policy requiring them, bids would not be required for either public works or purchases. (From a policy standpoint, though, it would probably be best to seek bids on some projects to assure that the city receives the best possible value.)

4.20.030 LEASE WITH AN OPTION TO PURCHASE.

A lease of personal (or real) property with an option to purchase may require competitive bids, dependent upon the cost of the property. RCW 35.42.220 requires a call for bids in accordance with RCW 35.23.352, if the cost of the property to be leased exceeds the amounts specified in RCW 35.23.352 (thus, \$7,500 for supplies, materials, and equipment). A lease of property without an option to purchase does not require a call for bids.

4.20.040 SMALL WORKS ROSTER.

A city or town may use small works roster procedures for construction of a public work or improvement, as an alternative to ("in lieu of") general competitive bidding requirements, when the contract amount is \$300,000 or less. A small works roster lists contractors who have requested placement on the roster and who, where required, are properly licensed or registered to perform work in this state. RCW 39.04.155(2) describes the procedures that a city must follow if it chooses to use a small works roster.

The MRSC Publication - [Small Public Works Roster Manual for Local Governments: Second Edition](#) (Report Number 51 *Revised*, May 2009) contains a wealth of information about the small public works roster process and sample documents.

4.20.050 EXCEPTIONS TO BIDDING REQUIREMENTS.

There are various exceptions to the previously discussed bidding requirements. It has been recognized, for example, that a municipality is not required to advertise for bids when there is an actual emergency, when the desired product is so monopolized that advertising for bids would produce only one bid, or if professional services are needed.

Qualifying neighborhood "self-help" projects may be constructed by a contracting association, such as the chamber of commerce, without regard to competitive bidding laws. Some pollution control facilities may likewise be exempt from competitive bidding requirements. Cities may not be required to seek bids if there are "special facilities or market conditions". Cities may also hire their county to do road projects without going out for bids.

Note these [Bid Law Exemption](#) resources.

Emergencies.

Certain emergency situations justify the making of a contract without adherence to bid requirements. In case of an emergency, where it is essential to the health, safety, or welfare of the people that immediate action is taken, the requirement may be dispensed with. The term "emergency" is defined by statute to mean unforeseen circumstances beyond the control of the municipality that either: (a) presents a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life, if immediate action is not taken.

[RCW 39.04.280\(1\)](#) (c) specifically authorizes a municipality to waive competitive bidding requirements for purchases "in the event of an emergency". In such a situation, the person designated by the governing body to act in the event of an emergency may declare that an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the city to address the emergency. If the city has not designated a person to act in the event of an emergency, the city council, presumably by resolution or motion, would declare an emergency exists, waive the bidding requirements, and award the contract. If a contract is awarded without competitive bidding due to an emergency, written findings of the existence of an emergency must be made by the governing body or its designee and entered into its record no later than two weeks following the contract's award.

RCW 35.22.620 also recognizes exceptions to the bidding requirements for first class cities in the event of an emergency. Several first class city charters also provide that the city may forego bidding procedures in the event an emergency exists.

RCW 38.52.070(2) authorizes political subdivisions in which major disasters occur (as defined in RCW 38.52.020 and 38.52.020 of the Washington Emergency Management Act), in the event of

an extreme emergency, to forego compliance with statutory competitive bidding requirements.

Checking with the state auditor's office before declaring the emergency is also recommended. If the auditor's office agrees that a particular factual constitutes an emergency situation, that does not guarantee that unhappy contractors will not sue, saying there was no emergency, but it should prevent a possible negative audit finding.

Sole Source.

It has been recognized in *Washington Fruit & Produce Co. V. The City Of Yakima*, 3 Wn.2d 152, 103 P.2d 1106 (1940) that municipalities may also forego calling for bids when the desired product is available from a sole or single source and advertising for bids would result in only one bid. In that case the City of Yakima awarded a contract to a private utility company for the maintenance of overhead electrical street lighting without calling for bids. The resolution adopted by the commissioners recited the fact that the utility company had provided Yakima with electrical service for many years and that it was the only entity then capable of providing the city with that service. Since advertising for bids in such a situation would have been futile because it would produce only one bid, the court held that the City of Yakima did not violate the bidding requirements of its city charter by not calling for bids.

Not only is there appellate case authority for purchasing without bids from a sole source, there is now also a statute, RCW 39.04.280(10(a), that explicitly addresses the practice. To engage in sole source bidding under this statute, the city council must either apply a previously adopted written policy or pass a resolution that states "the purchase is clearly and legitimately limited to a single source or supply." If the city council waives the bid requirement through application of a written policy, it must, immediately following the award of the contract, set out the factual basis for the waiver.

Neighborhood "self-help" projects.

Per [RCW 35.21.278](#) cities, counties, and towns may contract with a chamber of commerce, a service organization, a community youth, or athletic association, or other similar association located in and providing service to the immediate neighborhood, for the construction of neighborhood improvements, without regard to competitive bidding laws. The contracting association may make park and recreation improvements, install equipment or artwork, or provide maintenance services for the facility as a community or neighborhood project, and may be reimbursed by the city or town for its expenses. The consideration received by the municipality (improvements, artwork, etc.) must at least equal three times the city or town's payment to the association. Payments for all contracts made by a city or town to neighborhood associations may not exceed \$25,000 or two dollars per resident, whichever is greater, in any year.

State or county construction or repair of streets.

A city or town may, by resolution of its legislative body, authorize the county in which it is located to construct, repair, or maintain a city street. The city or town pays the "actual cost" of the work, with the payment being deposited in the county road fund. The State Department of

Transportation may also provide engineering assistance to a city on road projects or do the actual construction. The state is reimbursed from the city's share of the motor vehicle excise tax in the motor vehicle fund. Such agreements with the county or the state do not require competitive bids on the city's part. [RCW 35.77.020](#) provides separate and additional authority for cities to enter agreements with the county in which they are located for all or a specified part of the construction, repair, or maintenance of city streets and bridges.

Pollution Control Facilities.

Chapter 70.95A RCW, relating to pollution control facilities and enacted in 1973 may offer an important exception to bidding requirements. Although the primary emphasis of the chapter appears to relate to financing pollution control facilities, one section may exempt certain projects from any bidding requirements that might otherwise apply. RCW 70.95A.090 states in part:

"The [pollution control] facilities shall be constructed, reconstructed, and improved ... in the manner determined by the governing body in its sole discretion and any requirement of competitive bidding, lease performance bonds or other restriction imposed on the procedure for the award of contracts for such purpose ... is not applicable to any action taken under authority of this chapter."

The term "facility" is defined to mean "any land, building, structure, machinery, system, fixture, appurtenance, equipment or any combination thereof ... which is used or to be used ... in furtherance of the purpose of abating, controlling, or preventing pollution." "Pollution" is defined broadly to include water pollution, land pollution, solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

Although there have not been any relevant appellate court decisions or attorney general opinions on the statute, it would appear that its terms could be used to avoid bidding whenever a city or town constructs or reconstructs a building or structure or acquires fixtures or equipment which will be used for pollution control. Given the broad scope of the statute, this exception to the bid laws could be far-reaching. Cities may be able to build a sewage lagoon, aerate a lake, or purchase a landfill scale, all without going out for bids. However, in view of the lack of appellate or other authority regarding the chapter's use and the presumed fact that its provisions are seldom used, caution is suggested before a city or town decides to make use of its provisions. Asking the department of ecology to certify that the project is designed to abate, control, and/or prevent pollution would be a judicious step to take before ignoring the bid laws.

Services

There are few restrictions on contracting for services provided to city and county governments. All cities must secure the services of architects and engineers by a qualifications based selection process per [Chapter 39.080 RCW](#).

4.20.060 ARCHITECTURAL AND ENGINEERING SERVICES.

Architectural and engineering services are professional in character and thus are not covered by competitive bidding provisions. Contracts for such services may only be negotiated after following the procedures set out in [Ch. 39.80 RCW](#).

Ch. 39.80 RCW requires that a city or town publish its need for architectural or engineering services in advance, stating the general scope and nature of the project or work for which services are required. The notice must also provide the address of a representative of the city or town who can provide additional details. Compliance with this requirement may be accomplished by either: (1) publishing an announcement each time the service is needed or (2) announcing generally to the public the city's or town's projected requirements for any category or type of engineering or architectural service.

Cities and towns are to encourage architectural and engineering firms "engaged in the lawful practice of their profession" to annually submit a statement of qualifications and performance data. The city or town then evaluates the qualifications and performance data it has on file along with that submitted regarding a proposed project. Procedures and guidelines are to be developed "to insure that minority and women owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services."

The city or town next conducts discussions with one or more firms "regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services. The city or town then may select from among the firms the firm "most highly qualified to provide the services required. The price or cost of the service may not be considered by the city when determining which firm is the "most highly qualified." Once the "most qualified firm" has been determined, the city or town may negotiate a contract for the services at a price which the city or town determines is fair and reasonable. Price may only be considered when negotiations are conducted with the "most qualified firm." In reaching its determination, the municipality "shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature thereof." If a satisfactory contract cannot be negotiated, negotiations are to be formally terminated with the firm and another firm, following the above procedure, selected. The process continues until an agreement is reached or the search is terminated.

The process outlined above for the procurement of architectural or engineering services may be dispensed with upon a finding by the city or town that "an emergency requires the immediate execution of the work involved."

Go to Appendix J of the [Purchasing, Bidding, and Contract Management Sourcebook](#) for more information and sample documents.

4.20.070 MEANING OF PUBLIC WORK or "IS MAINTENANCE PUBLIC WORKS?"

The definition of public work includes all work, construction, alteration, repair, or improvement, but excludes ordinary maintenance. But what is "ordinary maintenance"? The statutes provide no definition. However, [WAC 296-127-010\(7\)\(b\)\(iii\)](#), which defines "ordinary maintenance" in the context of prevailing wages, can be used to craft a definition that distinguishes ordinary maintenance from a public work for bidding purposes:

[Ordinary maintenance is] defined as work *not performed by contract* and that is performed on a

regularly scheduled basis (e.g., daily, weekly, monthly, seasonally, semiannually, but not less frequently than once per year), to service, check, or replace items that are not broken; or work not performed by contract that is not regularly scheduled but is required to maintain the asset so that repair does not become necessary.

(Emphasis added.)

For example, replacing a deteriorating bridge or roof would amount to a repair, or perhaps new construction, but not maintenance. Such a project would be considered to be a public work and subject to limits on the amount of such work that can be performed by agency employees. On the other hand, using agency employees to rod or clean a sewer or clean a roof is considered ordinary maintenance and, therefore, would not be a public work. However, if instead of using city employees to perform the work, the city *contracts out* for the repair, the repair work is likely deemed a public work, both for bidding and for prevailing wage purposes. Other examples:

- Although often part of an agency's ongoing maintenance program, sidewalk replacement is not ordinary maintenance because it is not done annually. The asset is being replaced, rather than "maintained."
- Replacement of carpeting is not ordinary maintenance. Because carpeting is neither replaced annually nor used to maintain the asset, in this case the subflooring, it does not fall into the ordinary maintenance category.
- Although tree trimming may not take place annually it is considered ordinary maintenance because it is necessary to prevent branches from interfering with wires and to prevent damage during windstorms.

As noted above, some agencies feel that the non-mention of maintenance in the main body of the definition of public works, and the exclusion of ordinary maintenance means that maintenance is not a public works, even if prevailing wages are required for maintenance. Why is this an issue? If maintenance when performed by contract is a public works, then ALL of the following apply:

- Prevailing Wages
- Bonds
- Retainage
- Bid Limits

If maintenance when performed by contract were NOT considered a public works, then **ONLY prevailing wages** would apply.

MRSC's position, conservatively, is that agencies treat maintenance contracts as public works contracts, subject to bid limits, bonds, retainage and prevailing wages.

Do Prevailing Wages Always "Prevail"?

Chapter 39.12 RCW applies to all public works and maintenance by contract, regardless of dollar amount. More detail on prevailing wages can be found on the MRSC webpage [Purchasing and Bidding: Prevailing Wage Issues](#). However, legitimate questions arise in applying prevailing

wages to service contracts and other arcane work items. MRSC has prepared a [Public Works vs. Prevailing Wages Worksheet](#) () in an attempt to sort out some of this confusion. Agencies should not rely on this document, however. In many cases, a determination as to whether prevailing wages are to be paid is very fact dependent and you should [contact the Department of Labor & Industries](#) directly for a determination.

4.20.080 COST OF A PUBLIC WORKS PROJECT OR PURCHASE.

The question often arises as to what is to be included in estimating the total cost of each public works project in determining the applicability of the bidding requirements. RCW 35.22.620(5) provides that, in determining the cost of a separate public works project for first class all amounts paid for materials, supplies, equipment, and labor on the construction of that project should be included. RCW 35.23.352(5), applicable to second class cities, code cities, and towns provides that the cost of a separate public works project includes all cost of materials, supplies, equipment and labor.

RCW 39.04.020 requires that an agency prepare plans, specifications, and cost estimates. These are to be "filed" in the agency's office. RCW 39.04.040 thru RCW 39.04.100 also require that changes the plans and specifications and updated cost estimates are also filed with the agency.

Cost estimates are to include all construction related work, but not engineering or architectural design fees. They are to include all phases of the project. They (should) include applicable sales and use taxes, but not include donated labor, materials, supplies, etc. Estimates should be based on a competitive bid basis.

Inclusion of Sales And Use Tax.

Normally sales tax applies to every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons, including those who install, repair, clean, alter, improve, construct, or decorate real or personal property. Thus the tax should be included in determining the cost of an item or project.

The sales tax and use tax apply to most public works projects, with specific exemptions. Some exemptions include:

- Labor and services rendered for the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle owned by a city or town.
- Labor and services for the processing and handling of sand, gravel, and rock taken from city pits and quarries when the material is for publicly owned road projects.

MRSC has prepared a table - [WAC 458-20-171Matrix](#) - which attempts to summarize WAC regulations regarding sales and use tax applicability to public works contracts. For almost all local government public works contracts, the sales and use tax issue boils down to this:

Does the contractor include sales and use taxes, as applicable, in his/her unit prices or lump sum bid or does the agency include a line item in the contract for sales tax, either on the whole amount or on items not included in the exemptions?

When developing contract documents, it may be useful, in the bid proposal (bid item listing), to group those items that are subject to sales tax. Then, in a separate line item labeled "sales tax,"

reference that group, making it clear that in all other bid items, sales and use taxes, as applicable, are to be included in the unit price or lump sum bid.

4.20.090 BREAKING A PUBLIC WORKS PROJECT INTO SEGMENTS.

Municipalities may not break a public works project into phases to avoid compliance with bidding statutes. RCW 35.22.630, which relates to first class cities, provides in part:

"The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount prescribed in RCW 35.22.620 [for first class cities] is contrary to public policy and is prohibited."

RCW 35.23.352(1) relating to code cities and other classes of cities and towns, provide similarly; both restrict the division of a project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

It has been held that a city cannot break a public work into phases, even though those phases are performed at different intervals of time, for the purpose of estimating the cost of a public works project. Instead a city, while accomplishing the actual project in phases, must total the cost of all phases of the public work and, if the aggregate cost exceeds the applicable bid limit, bid each phase of the public work even though a given phase may cost less than the bid limit by itself.

4.20.100 INTERGOVERNMENTAL PURCHASES AND BIDDING.

No bidding is required when cities and towns enter into certain contracts with counties under RCW 47.24.050 for the latter to do work for cities and towns. This statute allows a city or town to enter into an agreement with a county whereby the county constructs, repairs, or maintains a city street. RCW 36.75.200 provides that a county may expend funds for the repair, maintenance, or construction of any bridges within the corporate boundaries of a city if the bridge is essential to continuation of the county road system.

A city or town may acquire used surplus property from another government entity without regard to bid laws. RCW 39.33.010 authorizes such purchases "on such terms and conditions as may be mutually agreed upon by the proper authorities."

RCW 39.34.080, a section of the Interlocal Cooperation Act, authorizes one public agency to contract with another public agency to perform any function which each agency is authorized by law to perform. Under this statute one public entity (e.g., the state) could act as agent or contractor for one or more public entities (e.g., cities or towns). RCW 39.34.030, another section of the Interlocal Cooperation Act, authorizes cooperative action, including joint purchases, by different governmental entities. Municipalities frequently use the authority granted in RCW 39.34.030 for making purchases through the Office of State Procurement (OSP) of the state Department of Enterprise Services. Municipalities thus realize savings through quantity purchasing. In order to make such purchases, a municipality must enter into a written agreement (an intergovernmental cooperative purchasing agreement) with the state Department of Enterprise Services, a copy of which is filed with the secretary of state, the city or town clerk, and the county auditor. The purchasing division of the department of general administration then sends to the municipality lists of contracts which have been entered into by that department

with suppliers (vendors), and which the municipality is eligible to use. These contracts are general in nature and are obtained by the department of general administration with the vendor agreeing to provide the same items to municipalities under the same terms and conditions as provided to state agencies.

If a municipality decides to make a purchase under one of the listed contracts, it notifies the Department of Enterprise Services of its intent to do so and the department sends the municipality a copy of the particular contract. The contract contains instructions on the procedures used to make purchases. Under most contracts, the purchase is made by the city or town directly from the vendor. In some cases, with respect to the purchase of motor vehicles, for example, DES requires the purchase be made through DES.

4.20.110 BIDDING WHEN A BRAND NAME OR PATENTED ITEM IS DESIRED.

Cities and towns may advertise for bids by specifying a particular brand name item so long as the responsible municipal officer or officers have exercised their judgment and determined that a certain brand name is of higher quality or is better suited to the municipality's needs. In *Smith V. City Of Seattle*, 192 Wash. 64, 72 P.2d 588 (1937), the city advertised for bids for incandescent lamps, specifying a particular brand. In a suit brought by a maker of a similar lamp, the court stated that as long as the officials involved exercised their discretion in determining that a particular brand of lamps was more desirable, the city's procedure was proper in the absence of abuse of discretion or fraud. In this case, the fact that the city had used the specified lamps previously and they had performed satisfactorily provided a rational basis for city authorities to limit the bid advertisement to that specified brand of lamps and the court found no abuse of discretion. There is no requirement that the bid specifications naming a particular brand also include a phrase such as "or an equal brand." It would seem, then, that the proper authorities of a municipality may advertise for a particular brand when that brand is best suited to the municipality's needs or when from past experience they can be more confident that it fits the municipality's needs.

Note, however that reliance on a particular brand may result in higher costs if the supplier perceives that the agency is "stuck" with his/her products. The agency should periodically evaluate the need for that brand name in relation to products offered by competitors.

4.20.120 Work by Agency Forces (or day labor)

As noted above in section 4.20.020, there are two sets of "bid limits" in the statutes:

1. Limits on the amount of work or project cost above which an agency cannot use its own forces or "day labor" hires to accomplish a public works contract.
2. Limits on the amount of work or project cost above which an agency must seek formal, competitive bids rather than informal bids or no bids at all.

Code Cities, Second Class Cities and Towns

[RCW 35.23.352](#) applies to all code cities, regardless of population, thanks to RCW [35A.40.210](#).

RCW 35.23.352 says:

"Any second-class city or any town may construct any public works, as defined in RCW

[39.04.010](#), by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of sixty-five thousand dollars if more than one craft or trade is involved with the public works, or forty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. ...”

RCW 35.23.352 also says:

“If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor (agency forces).”

It should be noted that a non-responsive bid is not a bid. If, however, responsive bids are received, but they are more than the city’s available funds, the option to use agency forces does not apply.

First class Cities

RCW 35.22.620 places two limits on when a first class city can use its own employees or day labor in the construction of a public works project.

- The first limit is on a project by project basis as noted in Section 4.20.020, with limits of \$90K for multi-craft projects and \$45K for single-craft projects. If individual projects are more than these limits, the city must contract for that work and cannot do them with its own forces,
- The second limit is that in any annual or biennial budget period, city employees are limited in the amount of work they can do on public works projects. This limit is ten percent of the city’s total public works construction budget, including any supplemental amounts, either cumulatively or for a single project. Whenever a first class has had public works performed by city employees in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period must be contracted through the competitive process.

Penalties may be applied if cities break the ten-percent limit. If the employees of any first class city perform public works in excess of the ten percent limit, the amount in excess of ten-percent will be subtracted from the amount of public works otherwise permitted to be performed by city employees during the next budget period. If, after two years from the date of the excess work, the city has failed to reduce the amount of public works performed by its employees, the state will reduce the motor vehicle fuel tax distributions to the city by twenty percent,

Notice of Work Performed by Agency Forces or Day Labor

[RCW 39.04.020](#) says in part (emphasis added):

If the state or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract or by a small works roster process, and it shall appear by such estimate that the probable cost of executing such work will

exceed the sum of **twenty-five thousand dollars**, then the state or such municipality **shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which such work is to be done.** When any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

Also, according to RCW 39.04.070, whenever public work is accomplished by agency forces or day labor, a full record of the kinds of work performed and the costs of such work must be kept. The BARS Manual prescribes reporting requirements and forms for reporting this work.

4.20.130 PURCHASING FROM THE FEDERAL GOVERNMENT.

The authority for cities to purchase from or through the federal government is found in RCW 39.32.[070](#), [080](#) and [090](#). The first statute states that cities are authorized to purchase equipment, supplies, materials, and other property, without advertising, giving notice, or inviting bids. RCW 39.32.080 suspends any charter provisions, ordinances, or policies that require bidding when dealing with the federal government. RCW 39.32.090 requires that an ordinance or resolution be passed before any particular purchase is made from the federal government or through a federal government contract.

Most purchases from the federal government are through the General Services Administration (GSA). Note this information from the [GSA Website](#):

- Under the Cooperative Purchasing Program, state and local government entities may purchase a variety of Information Technology (IT) products, software, and services from contracts awarded under [GSA Federal Supply Schedule 70](#), Information Technology, as well as from contracts under the [Consolidated \(formerly Corporate Contracts\) Schedule](#) containing IT special item numbers.
- State and local government entities may also purchase alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services from contracts awarded under [GSA Federal Supply Schedule 84](#), Total Solutions for Law Enforcement, Security, Facility Management Systems, Fire, Rescue, Special Purpose Clothing, Marine Craft, and Emergency/Disaster Response.

4.20.140 ADVERTISING FOR BIDS - NOTICE.

Code Cities, Second Class Cities and Towns

RCW 35.23.352(1), provides, in part:

"... All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to

be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. ..."

RVW 35A.65.020 provides: "The publication of a legal notice required by general law or by a code city ordinance shall be in a newspaper of general circulation within the city having the qualifications prescribed by chapter [65.16](#) RCW and shall be governed by the provisions thereof as the same relate to a city of any class."

Ch. 65.16 RCW specifies the qualifications of a legal newspaper. To be a legal newspaper a publication must be so approved by an order of the superior court and possess the following qualifications: (1) it must be published at least once per week, (2) it must be in English, (3) it must be published regularly, (4) it must hold a second class mailing permit, (5) it must contain news of general as opposed to special or particular interest, and (6) it must have been published for at least six months prior to its petition to the superior court for approval as a legal newspaper. Code cities, then, must publish notice as set forth in RCW 35.23.352 and RCW 35A.65.020 in a legal newspaper which is also the city's official newspaper and, as well, post such notice in a public place in the city.

First Class Cities

The first class city bid statute, RCW 35.22.620(2), provides, simply that "A first-class city may have public works performed by contract pursuant to public notice and call for competitive bids ..."

4.20.150 BID AND PERFORMANCE BONDS.

Bid Bonds

Bid bonds are required in order to guarantee that a bid has been made in good faith and to compensate the city if the bidder does not enter into a contract if his or her bid is accepted.

Code Cities, Second Class Cities and Towns

RCW 35.23.352 provides, in part:

"Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit."

After bids are opened and the contract is awarded to the lowest responsive and responsible bidder as required by RCW 35.23.352, the bid proposal deposits or bid bonds are to be returned to the unsuccessful bidders. The successful bidder's bid bond or deposit is retained until the bidder enters into a contract with the municipality and furnishes a performance bond in the full amount of the contract price. If the successful bidder fails to enter into a contract with the municipality and to provide a performance bond within ten days of being notified of his or her bid's acceptance, the bidder is required to forfeit the bid bond or deposit, as the case may be.

Practice note: It is a good idea to hold the bid bonds of both the second and third low bidders

until the low bidder has signed the contract.

First Class Cities

There is no similar statutory requirement for first class cities in RCW 35.22.620, but several city charters as well as city ordinances require that bid bonds or deposits of five percent of the bid be submitted.

Performance and Payment Bonds

RCW 39.08.010 provides that a municipality (all classes of cities) must require a performance and payment bond in the amount of 100% of the contract amount whenever it enters into a contract to ensure that the job will be completed and all laborers, mechanics, subcontractors, and material men will be paid.

On contracts of thirty-five thousand dollars or less, at the option of the contractor the respective public entity may, in lieu of the bond, retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under RCW chapter [60.28](#), whichever is later:

4.20.160 BIDDING IRREGULARITIES.

Errors in Bid Procedures or in Complying with Specifications

Advertisements for bids should set forth definite specifications and procedures for bidders to use in estimating their bids. There must be substantial compliance with the applicable specifications if a bid is to be considered. However, an insubstantial variance with certain specifications or bidding procedure will not prevent a municipality from considering a bid. As a general rule, an immaterial or insubstantial variance is one which fails to give one bidder a substantial advantage over the others.

Example of insubstantial variance: in *Rhine, Inc. v. Tacoma*, 13 Wn. App. 597 (1975), the court concluded that the late filing of a bid bond was an insubstantial variance that could be waived by the city because it did not give the late bidder an advantage over the others

Examples of substantial variance: in *AAB Electric v. Stevenson Public School District*, 5 Wn. App. 887 (1971), the court held that the failure to sign a bid was a substantial variance that justified the city's rejecting the low bid. The court noted that this defect would give the bidder who failed to sign the bid an advantage over the other bidders. This bidder could choose not to enter into a contract, if accepted as the low bidder, without having to forfeit his bid bond because his bid was unsigned. The other bidders, who had properly signed their bids, would forfeit their bid bonds if any of their bids were accepted and they failed to enter into a contract.

In a similar vein, the court in *Land Construction v. Snohomish County*, 40 Wn. App. 480 (1985), concluded that a substantial variance existed where a bidder included, as a subcontractor, a women's business enterprise (WBE) that was not certified as required by the specifications. The court saw in this circumstance an advantage over other bidders, because the bidder would have

to substitute a certified WBE in order for the county to accept the bid and the bidder could therefore decide not to enter into the contract if it thought the bid too low.

Bid Amount Errors

Bid amount errors are of two types:

- 1) those that favor a city, where the bidder makes a mistake that causes the bid to be lower than it should be; or
 - 2) those that favor a bidder, where the mistake causes the bid to be higher than it should be.
- These errors, which are relevant only when they affect the lowest responsible bid, are governed by some general rules, as follows:

A bidder is bound by the bid amount. The courts will not reform (that is, correct) a contract because of an error, even an obvious one, in the amount bid.

Example: In *J. J. Welcome & Sons Construction v. State*, 6 Wn. App. 985 (1972), the court refused to reform a contract based on a bid that was \$10,000 short as a result of a mistake made by Western Union in transmitting a telegram, even though the mistake was not noticed until after the bids were opened. The court, at page 990, noted that the state highway commission was statutorily foreclosed from any post-bid opening revision, concluding that: granting reformatory relief in this instance would open the door in a sensitive area to factual review of bid-letting procedures which would adversely invade the safeguards surrounding the competitive bidding system and the confidence which contractors and the public have in its fairness.

A city is not necessarily bound by the bid amount. In *Red-Samm Mining v. Port of Seattle*, 8 Wn.App. 610 (1973), the low bidder submitted a bid that the port determined was calculated incorrectly and was actually over \$96,000 less than the submitted total. The port refused to award the contract at the higher amount and threatened the bidder with forfeiture of the bid bond if it did not accept the bid award at the lower amount. The bidder elected to accept the contract at the lower amount, but then sued the port, claiming that it entered into the contract at the lower amount under duress. The court rejected the bidder's claim, because it had decided to enter into the contract rather than refusing the award at the lower figure and raising equitable defenses (duress), if the port had sought forfeiture of the bid bond.

Does the Red-Samm case mean that a city, when confronted with an obvious error that favors the bidder, can force the bidder to accept the contract at the correct amount? Probably the best that can be said is that it depends upon the circumstances and how a court might look at the equities of the situation and resolve the apparent inconsistency between the Red-Samm and J.J. Welcome cases.

The bidder who submitted the erroneous low bid may withdraw the bid, at the risk of forfeiting the bid bond. In *Puget Sound Painters v. State*, 45 Wn.2d 819 (1954), the low bidder submitted an erroneous bid as a result of a mistake made in estimating the cost of performing the proposed contract. After the bid was accepted, the bidder immediately realized the mistake and notified the state. The bidder was successful in a suit to recover its bid bond. The court

stated that following factors should be considered in determining if a bidder can be relieved of his contractual obligations (and not forfeit the bid bond) after submitting an erroneous low bid:

- whether the bidder acted in good faith,
- whether the bidder acted without gross negligence,
- whether the bidder was reasonably prompt in giving notice of the error in the bid
- whether the bidder will suffer substantial detriment by forfeiture
- whether the other party's (i.e., the city's) status has not greatly changed, and
- relief from forfeiture will cause no substantial hardship on that party.

RCW 39.04.107 says that a low bidder on a public works project who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

4.20.170 ACTION TAKEN AFTER BIDS ARE SUBMITTED AND OPENED.

A municipality cannot negotiate with the bidders once the bids have been submitted and opened. It must then either accept one bid or reject all of them. (It should be noted, though, that a bid which does not meet the bid specifications need not be treated as a bid at all.)

4.20.180 CHANGE ORDERS.

Any alteration to a project during construction that is not consistent with the bid specifications upon which the contract was awarded is a "change order." If, for example, during construction of a building foundation additional excavation work is required to avoid unstable soil conditions, the additional excavation is a result of a change in conditions, and the added cost to the contractor may be covered by a change order. If machinery anchors must be relocated to accommodate a piece of machinery that has been ordered, the relocation is a change order. If, during construction, a building must be redesigned to meet new federal or state standards, such as for access for the handicapped, the redesign and additional work is a change order. Conversely, reductions in work may result in a change order which will provide a credit to the city or town.

When does the additional work required by a change order require competitive bids? Look at [Practical Change Order Ideas](#) for SAO audit findings and ways of avoiding them. Also many agencies have policies regarding change order. Go to [Change Order Policy Summary](#).

4.20.190 LOWEST RESPONSIBLE BIDDER.

RCW 39.04.010(1) defines award as ""Award" means the formal decision by the state or municipality notifying a responsible bidder with the lowest responsive bid of the state's or municipality's acceptance of the bid and intent to enter into a contract with the bidder."

RCW 39.04.010(5) defines a responsible bidder as ""Responsible bidder" means a contractor who meets the criteria in RCW [39.04.350](#)."

RCW 39.04.350 sets forth, for all municipalities, both mandatory and (optional) supplementary criteria for a responsible bidder:

Mandatory Bidder Responsibility Criteria
Registered contractor
Current UBI number
Industrial insurance coverage
Employment Security Dept #
State excise tax registration #
Not disqualified from bidding
No Apprenticeship violations*
No Violations of Off-Site Reporting**
<i>*2009, **2010 Legislative Session</i>

Supplemental Responsibility Criteria

RCW 39.04.350 (2) states the following:

(2) In addition to the bidder responsibility criteria in subsection (1) of this section, the state or municipality may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project which the bidder must meet.

(a) Supplemental criteria for determining bidder responsibility, including the basis for evaluation and the deadline for appealing a determination that a bidder is not responsible, must be provided in the invitation to bid or bidding documents.

(b) In a timely manner before the bid submittal deadline, a potential bidder may request that the state or municipality modify the supplemental criteria. The state or municipality must evaluate the information submitted by the potential bidder and respond before the bid submittal deadline. If the evaluation results in a change of the criteria, the state or municipality must issue an addendum to the bidding documents identifying the new criteria.

(c) If the bidder fails to supply information requested concerning responsibility within the time and manner specified in the bid documents, the state or municipality may base its determination of responsibility upon any available information related to the supplemental criteria or may find the bidder not responsible.

(d) If the state or municipality determines a bidder to be not responsible, the state or municipality must provide, in writing, the reasons for the determination. The bidder may appeal the determination within the time period specified in the bidding documents by presenting additional information to the state or municipality. The state or municipality must consider the additional information before issuing its final determination. If the final determination affirms

that the bidder is not responsible, the state or municipality may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

Good reference to have is: Capital Projects Advisory Review Board (CPARB) [Suggested Guidelines for Bidder Responsibility](#)

4.20.200 CONFLICT OF INTEREST.

Municipal contracts which may benefit a municipal officer are severely restricted. [RCW 42.23.030](#) provides, in part:

"No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein."

Municipal officer includes:

- all elected and appointed officers of a municipality
- all deputies and assistants of such an officer
- all persons exercising or undertaking to exercise any of the powers or functions of a municipal officer

Second and third class cities, towns, and non charter code cities may let contracts in which a corporate officer has an interest if the amount of such contract, although exceeding \$750 per month, does not exceed \$9,000 per year. Another exception to the prohibition of RCW 42.23.030 is the employment of any person for unskilled day labor by second and third class cities, towns, or non charter code cities, provided that their wages do not exceed \$100 per month. Unskilled labor is defined by Webster's Third New International Dictionary, Unabridged as "labor that requires little or no training or experience for its satisfactory performance." Some qualified and conditional exemptions are also made for "remote" interests; e.g., ordinary employment of a municipal officer by a contractor for salary or wages.

[RCW 42.23.050](#) provides that any contract made in violation of RCW 42.23.030 is void. Any officer who violates RCW 42.23.030 is subject to a civil penalty of \$300 and a forfeiture of his or her office.

4.20.210 RESULTS OF VIOLATION OF BID STATUTES.

A violation of statutory bidding requirements may have a number of consequences.

First, a contract made in violation of such requirements, or those of a city charter or ordinance, is illegal and void.¹³⁴ Nevertheless, a city may have to pay for the reasonable value of a partially performed contract that is voided for violation of bid law, where there is no bad faith or fraud.

Second, a violation of bid law has consequences for the municipal officer under whom or under whose supervision the contract was made. RCW 39.30.020 provides that the officer is liable for a

penalty of not less than \$300 if the violation of bid law was "wilful and intentional," and that, further, the officer may be held liable for the consequential damages to the city resulting from the violation. The definition of

"municipal officer," for purposes of the penalties in RCW 39.30.020, is that contained in RCW 42.23.020(2), above, for conflicts of interest.

If the officer, in a criminal action against him or her, is found to have intentionally violated bid law, he or she immediately forfeits his or her office.

Chapter 4.24 CONTRACTS--AGREEMENTS

Sections:

4.24.010 Contracts and agreements generally.

4.24.020 Public works contracts.

4.24.010 CONTRACTS AND AGREEMENTS GENERALLY.

The City Clerk is responsible for maintaining contract and agreement files for all city departments. Contracts may be for construction of public works improvement projects, professional services, maintenance of city facilities, interlocal cooperative agreements for service provision, agreements to waive a property owner's right to protest a future assessment district, and a variety of other subjects. Whatever the department of origin, it is a good idea to keep all original contracts and agreements located in the city clerk's office, filed and cross-indexed so that agreements can be located easily and referenced by staff and the public. Alternatively, the City Clerk could deputize individuals in other departments to maintain original document files.

All contracts and agreements should be reviewed by the city attorney and approved "as to legal form"; in addition, most cities have only one city official sign all agreements and contracts, usually the mayor or city manager. The contract should be executed at least in duplicate and one original kept by the city clerk, with the other forwarded to the other party to the agreement. Copies of the executed agreement should be made and sent to the department of origin plus the finance department if the agreement has monetary implications.

Whether an agreement needs to be approved by the legislative body or by the city's administration depends on the nature of the agreement and your city's policy. Some cities authorize the chief administrative officer to execute public works contracts or professional service agreements if the amount does not exceed specified dollar limits. Interlocal agreements almost always require legislative approval. Public works contracts in excess of specified dollar limits usually require award by the legislative body.

4.24.020 PUBLIC WORKS CONTRACTS.

Public works contract files usually contain the following documents, some of which constitute the original contract document package and some of which are furnished after the contract is awarded:

Initial Document Set

- Call for sealed bids

- Bid specifications and plans
- Instructions to bidders
- General provisions
- Bid proposal form
- Bid bond form
- Equal opportunity statement
- Affidavit of non-collusion
- Affidavit of nondiscrimination
- Intent to pay prevailing wages
- Performance bond form
- Power of attorney form
- Certificate of insurance with specified limits and naming the city as an additional insured
- Copy of state contractor's license
- Evidence that the contractor meets mandatory bidder responsibility criteria per RCW 39.04.350
- Copy of city business license
- Contract agreement form

The Clerk should coordinate with the project administrator concerning who should retain pertinent documents.

Contract Administration Files and Contract Closeout

Go to Appendices H and I in the MRSC [Purchasing, Bidding, and Contract Management Sourcebook](#) for information and sample documents regarding change orders and project closeout, including a project closeout checklist. Go to [An Ounce of Prevention Kills Two Birds with One Stone](#) for suggested standard contract filing systems and checklists.

Chapter 5.04 GENERAL PROVISIONS

Sections:

- 5.04.010 Claims.
- 5.04.020 Summons.
- 5.04.030 Insurance--types available.
- 5.04.040 Insurance--recommended areas to be covered.
- 5.04.050 Risk management--records.
- 5.04.060 Risk management--susceptible areas.
- 5.04.070 Control of risks.

5.04.010 CLAIMS. All claims for damages against any class of city must be presented to and filed with the governing body in accordance with the provisions of Ch. 4.96 RCW. Charter cities may have additional provisions which will continue to apply so long as those provisions do not conflict with the state statutory provisions in Ch. 4.96 RCW.

Every person has the right to file a claim against the city for damages incurred by the claimant which he feels should be compensated by the city. [Per RCW 4.96.020](#)

~~3) For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the risk management subsection of the Office of Financial Management, except as allowed under subsection (c) of this subsection. The standard tort claim must be posted on the Office of Financial Management's website.~~

- ~~a) The standard tort claim should must at a minimum include the following information:~~
- ~~1) locate and describe the conduct and circumstances which brought about the injury or damage;~~
 - ~~2) describe the injury and damage;~~
 - ~~3) state the time and place the injury or damage occurred;~~
 - ~~4) state the names of all persons involved, if known;~~
 - ~~5) the amount of damages claimed;~~
 - ~~6) the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. You may wish to request additional information not precluded by law, such as the name(s) of any city employee(s) aware of this incident; name and address of the claimant's attorney; names and addresses of witnesses; and a request for documentation of amounts claimed. Claims may now be filed at any time within the applicable statute of limitations for making the allegation (often 3 years). However, no formal legal action may be commenced against the city or town for damages arising out of tortuous conduct until sixty days have elapsed after the claim has first been presented to and filed with the governing body.~~
- ~~i. The claimant's name, date of birth and contact information;~~
 - ~~ii. A description of the conduct and the circumstances that brought about the injury or damage;~~
 - ~~iii. A description of the injury or damage;~~

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- iv. A statement of the time and place that the injury or damage occurred;
- v. A listing of the names of all persons involved and contact information, if known;
- vi. A statement of the amount of damages claimed; and
- vii. A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

- b) The standard tort claim must be signed by either:
 - i. By the claimant, verifying the claim;
 - ii. Pursuant to a written power of attorney, by the attorney in fact for the claimant;
 - iii. By an attorney admitted to practice in Washington State on the claimant's behalf; or
 - iv. By a court-approved guardian or guardian ad litem on behalf of the claimant.

- c) Local government entities shall make available the standard tort claim form described in this section with instruction on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

- i. May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;
- ii. Must not require the claimant's social security number; and
- iii. Must include instruction on how the form is to be presented and the name, address, and business hours of the agent of the local government entity appointed to receive the claim.

- d) If any claim form provided by the local government entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local government entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

- e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

- f) The amount of damages stated on the claim form is not admissible at trial.

4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortuous conduct until sixty calendar days have elapsed after the claim has first been presented to the agent of the

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governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

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How your city handles claims will depend on what arrangements you have made for insurance coverage and at what level the deductible, or self-insurance retention, if any, applies. In any event, you should request information about the incident from the department(s) affected and forward those reports along with the claim to your insurance carrier or broker, attorney and/or risk manager, depending upon your specific claim reporting procedures.

If your city is a member of an insurance pool, follow the procedures they set forth.

5.04.020 SUMMONS. Summons are similar to claims in that they often seek monetary relief for damages alleged to be caused by the city, but they differ in that they bring the court system into the process. As Summons may also call for other forms of relief beyond seeking monetary damages. Per RCW 4.28.080(2), a summons against any town or incorporated city in the state must be served on the Mayor, City Manager, or, during normal office hours, to the Mayor's or City Manager's designated agent of the City Clerk. Typically, the summons will require a response within a limited time period (20 days). This is important because if the city fails to respond in a timely manner, it could lose its right to contest the charges. Summons may also call for other forms of relief beyond seeking monetary damages. Once a summons has been received, you should immediately forward a date-stamped copy to the City Attorney, City Manager/Administrator and affected department head(s). Your city attorney should advise you on responding to legal actions such as these. You should check with your city attorney regarding a policy for receiving summons as a service on the city clerk may have implications for others named in the lawsuit. Once a summons has been received, you should immediately forward a date stamped copy to the city attorney and affected department head(s).

5.04.030 INSURANCE--TYPES AVAILABLE. Washington cities have a wide range of options for insuring against losses. Insurance can be purchased commercially, purchased as a group through a commercially-insured pool, or a city can join a self insurance pool or independently self-insure all or part of its own exposures. City Clerks may be responsible for recommending an insurance alternative to the City Administrator, City Manager or the Mayor.

5.04.040 INSURANCE--RECOMMENDED AREAS TO BE COVERED. Cities need to consider coverage for losses in the following areas:

1. General Liability Insurance covers injuries to, or death of, 3rd parties, or damage to their property, caused by some act or omission of the city. With the city having such a high investment in streets, parks and other public areas, it is extremely important that the city be protected against losses from accidents which may occur.
2. Property Insurance protects the city against losses of city property from fire or water damage, lightning, etc. Ex-~~ten~~ded coverage may be included in the policy to cover other losses such as flood and earthquake damage.
3. Business Auto Insurance includes coverage for liability, collision and comprehensive damage to city-owned or leased vehicles.
4. Law Enforcement Liability Insurance covers ~~such~~ exposures such as alleged false arrest and imprisonment, excessive force, etc.
5. Errors & Omissions Insurance protects the city and its officials against losses from lawsuits claiming negligence or error. This type of insurance is particularly important for the city's elected and appointed officials ~~and~~ members of boards and commissions.
6. Workers' Compensation Insurance enables the city to provide certain benefits to workers injured in industrial accidents. The city usually buys Workers' Compensation Policies which pay the benefits required by law. The State sets the schedule of benefits that are paid. An increasing number of cities are self-insuring for Workers' Compensation.
7. Disability Insurance may also be provided by the city to re-~~pl~~ace income lost from inability to work because of accident or sickness, not otherwise covered by Workers' Compensation. This type of insurance ~~is available and~~ provides stated benefits for a specified number of weeks, months, or indefinitely after a stipulated waiting period, depending on the coverage paid for by the city.
8. Employee Benefits Insurance is generally provided as a benefit to the employee, ~~and as an aid to the city to maintain the health of the employee, and thus the quality of work of its employees.~~ The city usually has group insurance which al-~~l~~ows the employees ~~and family members~~ to be insured ~~as well as their family members~~. This type of insurance usually covers major medical expenses such as surgery and prolonged illness. It may or may not have a deductible amount or premium co-payment to be paid by the employee.

In addition, there may be special areas of loss the city should recognize and insure, such as airports, harbors, waterfronts, ~~f~~airgrounds, etc.

5.04.050 RISK MANAGEMENT--RECORDS. Accurate records of claims and summons should be kept by the ~~C~~city ~~C~~lerk, risk staff, or claims personnel, so if loss patterns emerge, staff can attempt to prevent those kinds of situations in the future. This is the first step that can be taken toward managing a city's risks. Track-~~ing~~ and analyzing your city's history of loss-causing incidents can be a part of a pro-active risk management and loss prevention program, which also includes projecting potential future losses.

5.04.060 RISK MANAGEMENT--SUSCEPTIBLE AREAS. Below is a non-exhaustive list of issues or situations, by city department, which could bring law suits or claims upon cities:

Executive/Administrative Hearings:

- Administration of federal grants
- Denial of freedom of speech in forums

Public Finance and Budgeting:

- Tax assessments: discrimination
- Public assistance payments: discrimination, grant, suspension, revocation, hearings
- Franchises: discrimination, property rights

Regulatory Functions:

- Licenses and permits: suspension, revocation, hearings

Personnel:

- Selection procedures
- Disciplinary actions, hearings
- Discrimination (racial, sex, age, handicap, etc.)
- Union membership

Planning and Zoning:

- Zoning changes, notices, hearings
- Invalid zoning ordinances;
- Enforcement
- Variances, permits to developers;
- Perpetuating segregation

Public Safety:

- Limiting press coverage of fires
- False arrest and imprisonment
- Excessive force, harassment
- Illegal entry, search & seizure
- Interrogation
- Parole proceedings
- Jail sanitation
- Prisoner medical and healthcare, rehabilitation
- Solitary confinement

Public Works:

- Demolition of private property: notice, hearings
- Street closings to improve neighborhoods: discrimination

- Inadequate or improper service delivery (i.e., inadequate maintenance)
- Denial of services
- Housing discrimination
- Location of garbage dumps: loss in property values
- Use and storage of toxic chemicals

Utilities:

- Service termination for nonpayment: hearings, appeals
- Security deposits: discrimination
- Private water system tie-ins/hook-ups:
 - discrimination
 - Environmental Impairment

Facilities:

- Streets, sidewalks, parks, equipment in disrepair
- Improper signage
- Improper roadway design

Health:

- Failure to provide transportation: loss of service
- Right to treatment
- Communicable diseases

Recreation:

- Admission to facilities: discrimination
- Location: discrimination

Judicial:

- Child custody proceedings
- Commitment to mental hospitals
- Malicious prosecution
- Obscenity: threats to prosecute

Becoming aware of existing and potential risks and identifying management practices which can be implemented to prevent losses are important in reducing the City's liability. You can also improve your awareness of trends in municipal liability by contacting the Association of Washington Cities (AWC), the International City Management Association (ICMA), and the Public Risk and Insurance Management Association (PRIMA) and asking about publications or

periodicals which they might offer. Also, your city attorney, insurance agent/broker or risk management staff or consultant may be able to provide information in this area.

5.04.070 CONTROL OF RISKS. Once risks are identified, they can be controlled by avoiding the risk-causing situation altogether (as in the case of a city electing not to sponsor or permit a public fireworks display); reducing the risk (by following appropriate City policies and training personnel); or transferring the risk (to a commercial insurance company or local government insurance pool). Risks that cannot be transferred, such as those which are excluded by a city's insurance policy or which fall below the policy deductible, might be financed along with the cost of the insurance itself. This completes the cycle of risk management and risk financing as cities begin to realize financial benefits from conscientious efforts to control losses.

Chapter 6.04 Public Relations

Sections:

- 6.04.010 Philosophy
- 6.04.020 Helpful hints

6.04.010 PHILOSOPHY. Establishing and maintaining sound relationships with your target constituencies is the essence of working public relations. ~~Thus, i~~ identifying the groups you ~~have influence impact on~~ is very relevant. Besides the media, you have other governmental agencies and offices; civic leaders; chambers of commerce; educators; consumers/voters/churchgoers; and many more groups of citizens who belong to many groups themselves.

~~Having a cohesive and productive relationship with these entities Getting along with them~~ can be ensured if you are genuine in your commitment to present yourself and your municipality professionally at all times. In terms of the media, this means being responsive to their needs, without losing sight of the fact you are a governmental agent. Your first allegiance is to your municipality.

A good way of staying out of trouble is to understand in advance what may happen when any message you supply ~~is publicly communicated does go out~~. What ~~message are you conveying is the message conveyed~~? Is it unambiguous? Should it be sent?

Any ~~City Clerk~~ attempting to practice sound public relations has to be ~~something of~~ a psychologist - know what's going on in people's minds; ~~something of~~ a financial expert - be able to translate figures to others; a sociologist - attuned to changing trends; a paralegal - aware of potential lawsuits; and, most of all, a dedicated service professional who wants to ~~bring present~~ the best ~~possible~~ impression of their municipality to all affected by it.

~~This kind of positive public relations works. By keeping everyone informed on certain issues and by developing written/verbal communications skills, city clerks must bring honor to this profession.~~

6.04.020 HELPFUL HINTS. REMEMBER TO BE ORGANIZED - BE IN CHARGE!!

- ~~1. A good statement in the beginning is the best of the original story.~~
- ~~2-1.~~ Always convey the impression to reporters that you are trying to help them.
- ~~3-2.~~ ~~Don't not~~ assume the interview is over until the TV reporter drives away.
- ~~4-3.~~ Never give reporters your personal opinion.
- ~~5-4.~~ Assume all calls from reporters are ~~being taped~~ "on the record."
- ~~6-5.~~ Be aware of newspaper deadlines.
- ~~7-6.~~ Avoid the appearance of a cover up.
- ~~8-7.~~ Dribbling out information keeps an embarrassing story alive!!
- ~~9.~~ ~~Don't let down on a slow day~~

- 10-8. Always be 100% right ~~in a confrontation with newspaper reporters.~~
- 11-9. Be alert to the waiting tactic!!!
- 12-10. Don't ~~not~~ be misled by the phrase, "off the record."
- 13-11. Never use crude or rude language.

Chapter 6.08 Newspapers

Sections:

- 6.08.010 Establish relationships
- 6.08.020 Credibility
- 6.08.030 ~~Deadlines~~
- 6.08.040 Spokesperson
- 6.08.050 News releases--content
- 6.08.060 News releases--format

6.08.010 ESTABLISH RELATIONSHIPS. Establishing a good working relationship with local ~~print~~ media (~~newspapers, magazines, journals~~) is essential. Regardless of your community size, the local newspaper, ~~whether published daily, weekly or monthly~~ is one of the most useful communication tools available for informing citizenry on topical community issues. A local newspaper column may carry general information from all city departments, along with keeping readers apprised of the next week's elections, special ballot issues, and more.

6.08.020 CREDIBILITY. It is important to establish credibility, not only with the general public, but also with reporters and other newspaper personnel who must be dealt communicated with regularly. Contacting these people for their advice helps establish the rapport required for a good relationship. They can let you know what is considered "newsworthy"; ~~the what~~ deadlines they have must be met; ~~and~~ what kinds of information they print; the physical layout; ~~and just how really important an issue your office considers "hot" is.~~

~~6.08.030 DEADLINES. Time schedules are vital. Equally important as meeting a newspaper's deadline is the accuracy of the information given. If you do not have a complete answer to a question, admit it; then, get back to the reporter when you have reliable information. Learn what the newspaper considers interesting and important enough to print. Normally, this will be information of a general nature rather than news of interest to only a small community segment.~~

6.08.040 SPOKESPERSON. A media spokesperson from your organization must be available to the press, especially in times of crisis. Timely reporting enhances the public image of government ~~officials with the press.~~ Your bB Being the most reliable source of information assures accessibility to the press, as the common goal is to. ~~They want to keep the public informed on what is going on in city hall the organization.~~

6.08.050 NEWS RELEASES--CONTENT. Informational news releases provide such information as: when dog licenses are applied for; when election day is to be held; and

so forth. Clerks, as the record keepers of the municipality or township, are responsible for the maintenance of documents and information. These records should be readily available to the public. In that regard, clerks are generally expected to provide details on issues and topics to the media, upon request. For obvious reasons, the media will generally contact the ~~clerk's~~ [City Clerk's department Office](#) for copies of documents and answers to questions about local [councils](#), [commissions](#), or boards, and to clarify or confirm information received from another source.

Preparing news releases is a basic skill necessary for good press relations. Some principles to remember are:

1. The six journalistic questions, (who, what, when, why, where, and how) should be answered as completely and accurately as possible, preferably in the first paragraph. Check for any misleading or inaccurate information.
2. Contact newspapers for their preferences as to layout. Usually, release copy should run only one page. If there is carry-over, try to end with a paragraph on page one so the second page starts fresh. Brief articles with full details stated concisely have a better chance of appearing as written ~~vs.~~ [versus](#) being edited beyond recognition ~~---~~ or simply disregarded.

6.08.060 NEWS RELEASES--FORMAT. Newspaper deadlines must be met. As soon as the information ~~on a coming event~~ has been confirmed, let newspapers know promptly. ~~Then, they will have time to insert it at their convenience.~~ Remember newspapers need "lead time" for printing even the smallest articles.

A news release should follow these guidelines:

1. Upper left hand corner of page should identify the municipality and the source of the release ("the contact") with telephone and address.
2. "FOR IMMEDIATE RELEASE" or date for release should be placed opposite, on the right hand side of the page. A suggested heading/title should be used, one line and underlined.
3. Start at least one-third of the way down the page and double-space (most important) the body of a release. Paragraphs should be indented five spaces and frequent paragraphing is preferred. Short sentences with active verbs are best.
4. End a release by dropping down a few lines from the body copy and center "-30-" or "###." If the release runs over one page, the word "more" should be typed at the bottom right of the page. Copies of news releases should be provided to the council and city management.

Chapter 6.12 Electronic Media

Sections:

- 6.12.010 Generally
- 6.12.020 Interviews
- 6.12.030 Council meeting coverage
- 6.12.040 Using cable television

6.12.010 GENERALLY. Electronic media - TV, radio, Cable TV - have become increasingly popular with municipal clerks. Whether participating in a weekly panel discussion on a local public CATV channel, televising ~~council~~ meetings, being interviewed before an election, or providing public service announcements (PSA's) on local government events, more ~~e~~Clerks are familiarizing themselves with this avenue of communicating with the public. The following offers basic information on how to deal with electronic media.

6.12.020 INTERVIEWS. Interviews by TV or radio media can be an unnerving experience even for those comfortable with public speaking. Fear of being unable to answer a question, of being tripped up or caught in a contradiction, or just the idea of speaking into a microphone in before a camera - all these can be intimidating to even the most experienced public officials - including municipal clerks, who are becoming increasingly ~~are becoming~~ involved in the public relations aspect of local government.

The general principle for being successful in an interview situation is - BE PREPARED
Some suggestions include:

Pre-Interview: Establish ground rules

1. Find out whether the interview will be taped, as well as when and where it will be held.
2. Specify topics that are off limits or off the record. But, beware, few ever are. When in doubt, ~~don't~~ not volunteer remarks gratuitously.
3. If possible, ask for questions in advance.
4. Brush up on the topic beforehand; collect pertinent facts and figures.
5. Role-play the interview with a well-informed partner who acts as "devil's advocate." Prepare for controversial questions or being interrupted by the interviewer ... even rudeness.
6. Control the situation, rather than letting the media control the situation. Have your "agenda" ready beforehand (i.e., those items ~~that~~ you want to discuss).
7. Participate in the interview. Resist interruption and work to get your message across.

The most basic piece of advice is to RELAX. ~~Don't~~ not panic. Realize ~~that~~ most of the time you know more about the subject than the interviewer. ~~T~~Television and radio exposure help any clerk reach a maximum amount of people in a short amount of time.

During Interview

1. Listen carefully to all questions and note the questioner's "body language."

- Pay attention to what is being said and what is implied. There may be times when a question can be rephrased and then answered or not at all.
- Do not try to second guess your interviewer. Answer the question as posed and ask for clarification if you do not understand. (e.g., "I don't understand your question. Would you please rephrase it?")
- ~~Insist on time~~ Take the time to think through your answers; then present them.

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~~Asking for a question to be reworded gives you time to think of an appropriate answer.~~

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2. Present the image of a knowledgeable interviewee.

- Try to "keep your cool-"; ~~don't allow h~~ Hostile or leading questions ~~should not be allowed~~ to frustrate you into responding in kind.
- Keep your answers brief and simple. This helps to keep both the interviewer's attention and the audience's.
- Keep a conversational attitude. The interview should seem as natural as talking to a citizen on a street corner.

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6.12.030 COUNCIL MEETING COVERAGE. Some municipalities will schedule regular media meetings to cover every ~~city council~~ meeting. Therefore, a staff person should be assigned to report on ~~issues that are of interest to the what transpires and what issues interest the~~ public. In these cases, it is appropriate to prepare a news/press kit prior to the conference. This provides background information and cuts down on the time needed to review what happened. ~~Also, Ensure you~~ follow-up with the newspaper after ~~a the~~ meeting to reinforce facts and clarify any actions taken.

Preparation of media mailing lists expedites dissemination of information from ~~city hall your organization~~. ~~Contact, therefore, should be made with all radio stations and television stations, as well as newspapers. As possible, send information to a specific department, attention of its public affairs director or division head.~~

~~Since the public often takes the printed word as authoritative,~~ Ensure that this the "final word" is accurate. In spite of news "press packets" and other tools used to keep a reporter informed, inaccurate data or details may be used in a printed article. Recognize there are times when a slight error should be best left alone - ~~correcting a minor point may over-emphasize an unimportant fact.~~

~~For example, the person making the error may not have understood the answer to the question or may have been distracted by a future story at the time. Misinformation or misdirection may be cleared up in a follow-up story or a correction.~~

~~If the news source itself does not rectify the situation, the city government newsletter can be used for correction. Council board meetings or cable TV spots also help clarify facts so citizens are given an evenly balanced view of a story.~~ Accuracy is always the final goal for both the reporter and local governmental representatives.

6.12.040 USING CABLE TELEVISION. Cable television is an excellent way to better inform residents, minimize complaints, and publicize special events. Timely information via public service messages, televising ~~council~~ meetings, regularly scheduled "talk shows" featuring members from all departments, ~~in city hall - these all~~ help to improve communication between government and citizenry.

Ensure ~~that~~ your municipality's organization's events are included on a television station's scheduling channel. Usually, there is a separate channel on your cable television programming listing the weekly schedule. If you have upcoming events, confirm ~~that~~ the station knows about them.

At the same time, the key to making television work for you is to develop a good working relationship with your cable company's liaison.

Many times the cable television franchising ordinance requires a studio to be located in the community and ~~that this the~~ studio's facilities be available to residents, the municipality and local schools. ~~Also, s~~Some communities require the franchising agency to provide equipment as part of granting the agreement.

Moreover, a myriad of ways have been adopted by various communities in putting cable TV to use. For instance:

- ~~Des Moines, Iowa, broadcasts council meetings live and then replays them during the week of the meeting. They also provide messages that are automatically rotated on the screen giving information on scheduled events, services provided through City Hall, crime and fire prevention tips, agendas, developments on emergency situations, etc. Time is also included for a weekly "City Beat" program and Fire Department training program.~~
- ~~Brownstown, Michigan, used its cable TV access to construct a videotape on the impact of reduced revenue sharing. The cable station filmed the piece as a community service at little cost to the township.~~
- ~~Downers Grove, Illinois, provides a half hour program of each week's council meeting, edited to provide visuals such as exterior shots of annexations, rezoning and subdivisions. This show runs twice weekly. Fifteen to thirty minute programs profile village departments and are aired weekly. Special events are publicized along with special interest programs.~~
- ~~South Portland, Maine, has begun a video talk show which involves interviews with City department heads. They discuss the responsibilities of their offices and the services each provides.~~

Comment [JB1]: Are all of these examples still current?

You can schedule a monthly special program about a department in the municipality your organization, a person, a program, a human interest story or anything of genuine interest for ~~local~~ residents. Make every attempt to have this program appear at the same time, whether it be weekly or monthly.

Finally, use cable television as a way to publicize special events and programs. Issue press/news releases to your cable television contact before an event. This ensures receiving valuable television publicity.

Chapter 6.14 Volunteers

Sections:

- 6.14.010 Usage
- 6.14.020 Applications
- 6.14.030 Interviews
- 6.14.040 Unpaid employees
- 6.14.050 Liability issues
- 6.14.060 Budgetary impacts
- 6.14.070 Recognition

6.14.010 USAGE. As budgets tighten, ~~cities, municipalities like and other public agencies,~~ are using volunteers to achieve delivery of certain services as cost-effectively as possible. Volunteers can provide a citizen's perspective and bring a wealth of experience to their tasks. ~~Whatever they are doing, from monitoring stream water quality to assisting in an Information Center,~~ it is important to have established procedures for dealing with volunteers, ~~regardless of the assigned task(s).~~

6.14.020 APPLICATIONS. ~~Some form of A~~ volunteer service application should be developed and ~~then~~ required of each volunteer. This ensures accurate records and a contact in the event of an emergency.

6.14.030 INTERVIEWS. A personal interview should precede placement in any long term position to ensure ~~that~~ the volunteer is in a spot that matches his/her knowledge and skills.

6.14.040 UNPAID EMPLOYEES. Volunteers should be considered employees who are not paid a salary for their contributions. They should receive the same treatment as other employees, including orientation and ongoing training conducted as needed. For recognition and reporting, it is important to track the number of volunteer hours provided to the city organization. There should also be a vehicle for evaluation, to ~~ensure be sure that~~ the match of the volunteer to the position is a good one for both parties.

6.14.050 LIABILITY ISSUES. The city organization may assume some liability for volunteers while they are on the job. This is why it is important to report hours to assure insurance coverage if it exists while performing volunteer duties. The insurance carrier will probably require that to be eligible for coverage, the names of all volunteers must be on record with the city. A city organization may not only assume some liability for the volunteer, but a volunteer may create liability for the city organization. This is why it is

important to treat volunteers like employees and monitor and evaluate performance of duties.

6.14.060 BUDGETARY IMPACTS. ~~Although v~~Volunteers can save a municipality a great deal of money, use of volunteers is not entirely without budgetary impacts. It is important to recognize the contributions of volunteers, both informally and on an on-going basis and formally, through various types of recognition events. Funding ~~s~~ should be set aside in the budgets of volunteer programs to pay for such recognition. It is also important to note that volunteer programs require staff time to perform the necessary activities outlined in this chapter.

6.14.070 RECOGNITION. Recognition comes in all sizes, from a simple thank you to a letter or award. Familiarize yourself with the organizations policies and procedures for recognition such as longevity, departmental recognition given by department directors and co-worker recognition.

Some principles of recognition are:

1. Give it frequently.
2. Use a variety of recognition techniques.
3. Be honest; credibility is important.
4. Recognize the individual, not the work.
5. Make it appropriate to the achievement. ~~Recognition comes in all sizes, from a simple thank you to a letter to a trophy. Small deeds should receive recognition that requires little effort and big deeds should be recognized i ways that take more time or are consistent.~~
6. Be consistent. If one person receives recognition for an action, another who does something similar should receive similar recognition.
7. Be timely. If recognition is not given until much after the event, the person will feel unappreciated in the meantime.
8. ~~Give it OR ELSE!~~

~~An example of volunteer recognition criteria may be based Most volunteers are recognized for on the number of time (i.e.-hours or years) they have contributed. This is one valid criteria for recognition. However, w~~With a variety of volunteer programs, it is appropriate to look for other methods of recognition as well.

Chapter 6.18 Lobbying Through Association of Washington Cities

Sections:

- 6.18.010 Background
- 6.18.020 Effectiveness
- 6.18.030 AWC Legislative Bulletin
- 6.18.040 Receiving copies of bills

Comment [JB2]: AWC has a "bill tracker" option that we should now include. Sandy is very involved in the Legislative Committee if we have questions. Maybe Sandy can elaborate more in this section.

- 6.18.050 Monitoring legislative activity
- 6.18.060 Participation in legislative process
- 6.18.070 Reporting lobbying

6.18.010 BACKGROUND. The Association of Washington Cities (AWC) is a grassroots lobbying organization in the truest sense of the word. While many organizations rely heavily on their ability to raise funds to make campaign contributions to legislators, AWC does not. Over the years, it has been able to effectively influence legislation affecting cities and towns, often despite well-financed opposition.

6.18.020 EFFECTIVENESS. AWC has two valuable assets in its lobbying efforts:

- a staff that provides timely, accurate information, and on-going advocacy at the Capitol.
- an organized membership of municipal officials committee to good government who are recognized and respected as opinions leaders in their communities. AWC's effectiveness and collective clout are a direct result of the willingness of municipal officials to make their voices heard. This is why it is important for all cities and towns to take an active, consistent, and continuing role in AWC's legislative efforts.

6.18.030 AWC LEGISLATIVE BULLETIN This is the main tool of communicating between AWC and its members. Each Friday during the legislative session, the Bulletin is mailed to keep elected and appointed officials. It highlights priority bills as they move through the legislative process. It also serves as a vehicle for requesting action, such as occasional requests for comments regarding a particular bill's impact on you city and frequent requests for letter or phone calls of support or opposition.

6.18.040 RECEIVING COPIES of BILLS. The fastest and easiest way to obtain copies of bills is to call the Legislative Bill Room at [360] 786-7573. Request bills by the bill number (HB# for bills originating in the House, SB # for Senate bills).

6.18.050 MONITORING LEGISLATIVE ACTIVITY. Make sure one staff person is responsible for immediate review of the Legislative Bulletin and for initiating a timely response by your city. During the business periods of the legislative session, a response from your city may be needed in less than a week and occasionally in one or two day.

6.18.060 PARTICIPATION IN THE LEGISLATIVE PROCESS. Establish a quick and simple procedure to enable your city to take positions on bills discussed in the Bulletin and for other bills of interest to your community. Cities use a variety of methods for determining their positions on bills. Sometimes they adopt the AWC position. Sometimes the manager or other staff will recommend additional review by the mayor and councilmembers. Other cities may debate each bill before taking a position. The important point here is that a position is taken early in the legislative process, when the opportunity to have an impact on the outcome of the bill is greatest.

It is important to provide follow-up responses as requested throughout the legislative session. Bills are heard before several committees, but letters do not necessarily follow bills through the process. Also, AWC's position and your city's position on a specific piece of legislation may change as the bill is amended. Consequently, it is vital that you continue to respond immediately to requests for letters, even though you already may have written a letter at an earlier point in the process.

There is no need to worry about writing your legislator about too many bills. The Bulletin includes only a fraction of all the bills introduced. Your representatives need to hear from cities and towns, or they are forced to make decisions on important local government issues without knowing the local impact they will have.

Letters should be sent to the chair of the legislative committee where the bill is pending so your city's position will be included in the committee's briefing materials. Copies also should be sent to the bill's author, your legislators, committee members, and AWC. The remaining tips from AWC for participating in its lobbying efforts include:

- sending letters, not resolutions;
- using any special clout your city may have;
- remembering to say "thanks";
- keeping the AWC staff informed;
- taking part in AWC policy development;
- meeting regularly with your legislators;
- knowing your legislator's staff;
- collaborating with community groups;
- establishing a working relationship with local media;
- sticking with issues year-after-year; and
- following the golden Rule (approaching your legislators the way you, as a city official, want to be approached by your constituents--with courtesy and respect.)

6.10.070 REPORTING LOBBYING. When lobbying is carried out by elected officials, such as mayors and councilmembers, there are generally no reporting requirements. If in-person lobbying is conducted by other officials, staff members or employees, their activities must be reported to the Public Disclosure Commission when certain conditions occur. These are (1) in-person lobbying exceeds four days or part of days in any three-month period and (2) expenditure of non-public funds exceeds \$15 during any three-month period. [See RCW 42.17.190 from Redmond City Clerk's Hand book, Doris Schaible, CMC, "15 Ways to Take Part in AWC's Lobbying Effort."](#)

Chapter 7.06 Fair Labor Standards Act

Sections:

- 7.06.010 History.
- 7.06.020 Basic requirements.
- 7.06.030 Relationship between FLSA and state wage hour laws.
- 7.06.040 More favorable benefits.
- 7.06.050 Relationship between the FLSA and collective bargaining agreements.
- 7.06.060 Payment of exempt employees.
- 7.06.070 Payment for working holidays.
- 7.06.080 Payment for employees who "volunteer" to work at home.
- 7.06.090 Calculation of "regular rate of pay".
- 7.06.100 Averaging work weeks.

7.06.010 HISTORY. The Fair Labor Standards Act ("FLSA"), first enacted in 1938, established a minimum wage, overtime, record keeping requirements, and child labor standards. In 1963, the FLSA was amended to prohibit discrimination on the basis of sex with respect to compensation for performance of equal work.

Congress first applied the FLSA to state and local governments in 1966, when it extended the Act's coverage to certain groups of employees of public employers. In 1974, Congress further amended the FLSA to cover all state and local employees, by adding special provisions governing the computation of overtime for state and local enforcement activities. In 1985 Congress made major changes in several of the FLSA's provisions as they apply to state and local employers.

Many states have also enacted wage-hour laws, some of which differ substantially from the FLSA. Employers may also be subject to collective bargaining agreements that establish compensation requirements.

7.06.020 BASIC REQUIREMENTS. The FLSA establishes minimum wage, overtime, record keeping, child labor, and equal pay requirements. In addition to the minimum wage, the FLSA requires that all covered, non-exempt state and local employees receive premium overtime pay or compensatory ("comp") time off for all hours worked over 40 per seven-day work week. If cash overtime is paid, the employee must receive 1.5 times his or her "regular rate of pay" for each overtime hour. Similarly, if comp time is used, the employer must provide the employee 1.5 hours off for every overtime hour worked.

The FLSA also requires employers to keep various records for all covered employees. DOL regulations require detailed record keeping (including covered employees who are exempt from the FLSA's minimum wage and/or overtime requirements). No particular form of records is required.

7.06.030 RELATIONSHIP BETWEEN FLSA AND STATE WAGE-HOUR LAWS. The FLSA does not excuse non-compliance with any federal, state, or local law that establishes a minimum wage higher than the FLSA's minimum wage, or sets lower limitations on the maximum number of non-overtime hours in a work week or work period. Thus, state and local governments must comply with any provisions of state or local laws which establish minimum wage or overtime standards that are more beneficial to employees than those of the FLSA. By the same token, provisions of state or local laws that are less beneficial to employees than the FLSA do not excuse non-compliance with the more beneficial provisions of the FLSA. If a state or local law is more favorable to employees than FLSA in some respects, but less favorable in others, the employer must comply with both the state law and FLSA, following the more employee-favorable provisions in each case.

7.06.040 MORE FAVORABLE BENEFITS. The FLSA does not prohibit an employer from agreeing to establish wage and hour policies that are more favorable to employees than required by the FLSA. Thus, the FLSA has no effect on provisions of collective bargaining agreements that require premium over time compensation for work in excess of a specified number of hours less than 40 per week, an overtime rate greater than 1.5, or any other provision that is more favorable to employees than is the FLSA. Employers who have agreed to employee-favorable terms should be aware that certain fringe benefit payments can be excluded from the computation of FLSA overtime and that certain premium payments required by contract or collective bargaining agreements may also be credited against FLSA overtime owed by the employer.

7.06.050 RELATIONSHIP BETWEEN THE FLSA AND COLLECTIVE BARGAINING AGREEMENTS. An employee cannot waive, by contract, collective bargaining agreement, or any other method, the right to receive minimum wage or overtime compensation required by the FLSA. Thus, provisions of collective bargaining agreements that establish overtime rates or methods for computing overtime pay which are less favorable to employees than the FLSA are null and void. However, section 2(b) of the 1985 Amendments provides that collective bargaining agreements that include comp time plans inconsistent with the comp time rules established by the 1985 Amendments will remain in effect, except that the employer will be required to provide the comp time in accordance with the 1985 Amendments.

7.06.060 PAYMENT OF EXEMPT EMPLOYEES. It is not true that all employees who are paid salaries are exempt from FLSA overtime requirements. Exempt employees must be paid on a salary basis, but simply being paid on a salary is not enough to qualify an employee for the exemption. There are other tests to determine whether or not employees qualify for the Administrative, Professional, or Executive exemptions under the FLSA. These tests are quite specific, and address job duties and responsibilities, not just job titles. Before assuming that employees paid on salary are truly exempt, the requirements for exemption should be carefully reviewed.

It is also untrue that employees who are "exempt" from a union contract are also considered "exempt" under the FLSA, and thus not entitled to overtime. There is no correlation between

union status and FLSA-exempt status. Again, the specific duties of the position must meet the qualifications for exemption under the FLSA. A common misconception is that someone classified as a "confidential" employee who is exempt from union membership is not entitled to overtime. In many cases, this is not true.

7.06.070 PAYMENT FOR WORKING HOLIDAYS. There is no requirement under the FLSA that employees be given premium pay for holidays, weekends, or evening work. Over time is only required for time actually worked in excess of 40 hours in a work week. In fact, sick leave, vacation leave, and holidays taken during a work week do not need to be counted as hours worked in determining if an employee has worked more than 40 hours in a week. Again, a collective bargaining agreement or personnel policy could obligate payment of overtime in these situations.

7.06.080 PAYMENT FOR EMPLOYEES WHO "VOLUNTEER" TO WORK AT HOME. It is a misconception that employees who "volunteer" to work overtime, or regularly take work home to complete, do not need to be paid for that work. A non-exempt employee who volunteers to work overtime must be paid for that time. If it is known that an employee is working extra hours, those hours are compensable hours of work, and the employee is entitled to be paid for them. If non-exempt employees are regularly working extra hours, they should be instructed not to, and steps should be taken to discipline those who continue to do so. Otherwise, the employer could be subject to substantial liability.

7.06.090 CALCULATION OF "REGULAR RATE OF PAY". Overtime is calculated at 1.5 times the "regular rate of pay", which includes all compensation for employment paid to, or on behalf of, the employee, with a few exceptions. Examples of pay that would have to be included in the regular rate of pay include: shift differentials, education incentives, longevity pay, hazardous duty pay, special assignment pay, bonuses that are based on accuracy, good attendance, incentive, quality of work, etc., retroactive pay increases, payments for EMT certification, and payments to canine officers. These payments must be added to the basic rate before overtime is calculated.

7.06.100 AVERAGING WORK WEEKS. It is illegal to require an employee to work 50 hours one week and 30 hours the next without having to pay any overtime, since the average is 40 hours a week. The FLSA requires that each work week be treated separately. With few exceptions, hours cannot be averaged over two or more weeks to avoid an overtime obligation. In this example, the non-exempt employee would be entitled to 10 hours over over time compensation in the first work week.

Chapter 7.08 Americans with Disabilities Act

Sections:

- 7.08.010 History.
- 7.08.020 Overview of requirements.
- 7.08.030 Program access.
- 7.08.040 Steps to compliance.
- 7.08.050 Working with persons with disabilities.
- 7.08.060 Additional information sources.

7.08.010 HISTORY. On July 26, 1990, the President of the United States signed the Americans with Disabilities Act. This law prohibits discrimination--in employment, transportation, public services, public accommodations and telecommunications--against an estimated 43 million Americans with physical and mental disabilities. As of January 26, 1993, Title II prohibits discrimination on the basis of disability by "public entities".

7.08.020 OVERVIEW OF REQUIREMENTS. Local governments cannot deny individuals with disabilities the right to participate in, or in any way limit participation in, a service, program or activity simply because the person has a disability. Programs must be operated so that, when viewed in their entirety, they are readily accessible to, and usable by, individuals with disabilities. Reasonable modifications must be made to policies, practices and procedures that deny access to individuals with disabilities, unless a fundamental alteration in the program would result. No special charges to individuals with disabilities should be made to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters.

7.08.030 PROGRAM ACCESS. Local governments must ensure that individuals with disabilities are not excluded from services, programs, and activities because buildings are inaccessible. Removal of all physical barriers, such as stairs, in all existing buildings is not required, so long as programs are made accessible in some way to individuals who are unable to use an inaccessible existing facility. Services, programs and activities offered in a facility where the physical barriers are not removed can be provided through alternative methods, such as relocating a service to an accessible facility, providing an aide or personal assistant to enable the individual with a disability to obtain the service, or providing benefits or services in an individual's home or alternative accessible site.

7.08.040 WORKING WITH PERSONS WITH DISABILITIES. The most important thing to remember in any conversation with someone with a disability is to assume nothing. IF you have a question about what to do, what language or terminology to use, what assistance, if any, they might need, the person with the disability should be your first and best resource. Do not be afraid to ask.

Be patient, not only with the person with the disability, but with yourself. Frustration may come from both sides of the conversation, and needs to be understood and dealt with by both parties.

The most important thing to focus on during a conversation with a person with a disability is the overall goal. It is simply communication between two individuals. Ultimately, it is what is communicated, not how it is communicated that will be important.

Appropriate behavior is crucial in an interviewing situation. It may not be discrimination itself, but the appearance or perception of discrimination, that causes the majority of misunderstanding and human resource problems.

Do not be afraid to discuss a person's disability with him/her in the interview, if it is introduced. Do not be too anxious to go right to that topic. A person's qualifications, experience, education, work history, and general ability and experience in doing the job are still the main topics to consider in an interview and should be discussed prior to any questions of disability, reasonable accommodation, etc.

With interviewing, as with conversation, when in doubt about what to do, what to say, what terminology to use, or the assistance that a person may need, do not be afraid to simply ask.

7.08.050 STEPS TO COMPLIANCE. The Americans with Disabilities Act requires a city to do the following:

1. Select a person to coordinate compliance;
2. Create a grievance procedure;
3. Access or evaluate services, policies, and practices for accessibility to persons with disabilities;
4. Ensure that structural aspects of city-owned facilities do not prevent people with disabilities from participating in programs and receiving services; and
5. Create documents to inform the public of rights protected by the Act.

7.08.050 ADDITIONAL INFORMATION SOURCES. The U.S. Department of Justice has established National Regional Disability and Business Technical Disability and Business Technical Assistance Centers. Calling 1-800-949-4ADA from any state will reach the technical assistance center in your region.

In Washington, the Washington Coalition of Citizens with DisABILITIES, a nonprofit organization located in Seattle, promotes the social well-being of persons with disabilities and provides accessibility consulting. The address is 4649 Sunnyside Ave. N., Suite 100, Seattle WA 98103-6900. The telephone number is (206) 663-6629.

Chapter 7.10 Sexual Harassment

Sections:

- 7.10.010 Seriousness.
- 7.10.020 Definitions.
- 7.10.030 Differing perspectives.
- 7.10.040 Cultural messages.
- 7.10.050 Managerial responsibilities.
- 7.10.060 Counseling victims.
- 7.10.070 Counseling harassers.
- 7.10.080 Recent court decisions.

7.10.010 SERIOUSNESS. Sexual harassment should be taken seriously. Doing so is a sound management practice which can result in higher productivity and morale, fewer turnover problems and costs, and clearer performance standards.

Taking sexual harassment seriously is part of compliance with the law and can result in the reduction of illegal, discriminatory behavior and creation of a positive work environment where people are treated fairly and enjoy equal opportunity for hiring, training and promotion.

Taking sexual harassment seriously is a matter of organizational policy which can make a real contribution to the overall effectiveness of your organization through improvements in productivity, communication, and ethics.

7.10.020 DEFINITIONS. Sexual harassment violates both Title VII of the 1964 Civil Rights Act and Chapter 49.60 of the Revised Code of Washington (Law Against Discrimination). These laws are enforced by the Equal Employment Opportunity Commission, which is a federal agency, and by the Washington State Human Rights Commission.

According to guidelines used by these agencies, sexual harassment can be either physical or verbal, but always has some relationship to the employment of the victim. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature are illegal. It is sexual harassment when:

- submitting to sexual advances is an open or implied condition of employment;
- the employee's response to sexual advances becomes the basis for employment decisions such as promotion, transfer, or termination; or
- the unwelcome conduct creates a hostile, intimidating, or offensive environment which interferes with an individual's job performance.

Case law has made it clear that employers will be held liable for the presence of sexual harassment in the workplace. In addition, under civil law, individuals can be sued on charges of sexual harassment. A municipality may be held liable for its handling of sexual harassment complaints.

A practical definition of sexual harassment is "any verbal or non-verbal behavior in the workplace which focuses on the sexuality of the victim, is unwanted, and is intentional or repeated."

7.20.050 CULTURAL MESSAGES. Times change faster than people's values and beliefs. Beneath the modern emphasis on equality for men and women in the workplace are more deeply held traditional beliefs which may push an individual toward the role of harasser or victim.

One of the strongest cultural messages is that men are by nature more powerful than women. The effect of this message is magnified many times by the fact that organizations are also made up of different levels of power. The relationship of a male supervisor to a female subordinate may involve both a cultural message about men being stronger than women, and an organizational message about one person's job role being more powerful than another's. If the male supervisor makes sexual advances, he is exerting cultural and economic power.

Because of strong cultural and organizational messages about their level of power, victims may experience feelings which block their ability to tell the harasser to stop, especially if the harasser is the victim's supervisor or is someone higher in the organization. They may suffer severe emotional and physical stress, including a tremendous loss of self-confidence, the deterioration of family and work relationships, and physical symptoms such as backaches, migraine headaches and nervous tension.

7.10.060 MANAGERIAL RESPONSIBILITIES. A supervisor must do four things to ensure a workplace is free of sexual harassment:

1. Act to prevent it by modeling appropriate behavior, observing interactions in the workplace, and educating co-workers and employees about this issue.
2. Investigate promptly and collect information to determine an appropriate course of action.
3. Intervene to confront the harasser, counsel both harasser and victim, problem solve with both and, if necessary, discipline the harasser.
4. Develop a follow-up plan, monitor the interactions of those involved, and support the victim.

7.10.070 COUNSELING VICTIMS. A supervisor can play an important part in helping the victim cope with and possibly correct the problem on his/her own. First, indicate that the offensive behavior is not part of the job and is not the victim's fault. Show a willingness to address the issue. It is not necessary for an offended person to confront the harasser. Also, do not let the victim "let it go this time" unless the offense is minor and unrepeated. A supervisor has an obligation under law to intervene and prevent sexual harassment.

As part of counseling, a supervisor should encourage the victim to talk to the harasser and tell him/her to stop the offensive behavior. This may help the victim overcome some of the feelings

of powerlessness that go with a sexual harassment situation. The victim should be encouraged to describe to the harasser how the offensive behaviors interfere with work.

If appropriate, the victim should be asked to consider whether any of his/her own behavior may be contributing to the problem. A victim may be unknowingly encouraging harassment by style of dress or communication. Victims should not encourage harassers by smiling, laughing at their jokes or "flirting back". This type of behavior can lead the harasser to believe the victim really enjoys the offensive behavior.

The victim should be encouraged to document the offenses in writing, sending one copy to the harasser and keeping the other. The victim should report continued offensive behaviors. All sexual harassment incidents or conversations about the incidents should be documented with the date, time, place, people involved, exactly what happened, and who said what to whom.

7.10.080 COUNSELING HARASSERS. The following actions can be suggested:

- Pay attention to how others respond to what you do and say.
- Don't assume that your co-workers or employees enjoy comments about their appearance, hearing sexually oriented jokes or comments, being touched, stared at, or propositioned.
- Think about the impact of what you do and say on other's attitudes toward work, job performance, self-esteem, and the City's reputation.
- Talk to your spouse, family members, and close friends about experiences they might have had with sexual harassment. As people describe the vulnerability, powerlessness, or anger they experienced as victims, relate those feelings to experiences you have had.
- Do not assume that individuals who work for you will tell you if they are offended--or harassed--by what you say or do. Remember that one of your employees may be "smiling on the outside" but "crying on the inside" simply because you are the boss.
- Remember that sexual harassment is against the law. Recent court decisions have resulted in both organizations and individuals paying large fines, not to mention the adverse publicity and personal pain that results from a legal action.

7.10.080. COURT DECISIONS. The U.S. Supreme Court decided the well-publicized sexual harassment case of **Harris v. Forklight Systems, Inc.** on November 9, 1993, confirming that an employee does not need to prove psychological damage to show sexual harassment. The decision clarified the standard to be applied under Title VII for determining when a hostile or abusive work environment exists.

The Court held that a plaintiff does not have to prove that a sexually hostile work environment "seriously affected [the plaintiff's] psychological well-being" in order to prevail. Noting that Title VII comes into play before the harassing conduct leads to a nervous breakdown, the Court held that an unlawfully hostile or abusive work environment could exist without proof of psychological harm.

Although evidence of such harm may be relevant, it is not the only factor the courts will consider. In so holding, the Court rejected a standard used in several circuits that required the psychological well-being of the plaintiff to be seriously affected in order for the conduct to be held unlawful. The Ninth Circuit, which includes Washington State, has not required proof of such harm under Title VII, so the Supreme Court's ruling does not significantly change the law in Washington State in that respect.

The Court also adopted an approach similar to the Ninth Circuit's "reasonable woman" analysis by creating a "reasonable person" standard as to what would constitute a hostile work environment. An unlawful environment is one that a "reasonable person" would find hostile or abusive, not necessarily what the individual plaintiff in a given case found to be so. In other words, the conduct must be "severe or pervasive enough to create an objectively hostile or abusive work environment."

The leading case in Washington State setting forth the elements of a hostile environment sexual claim was *Glascow v. Georgia-Pacific*. **In that case, the Washington Supreme Court included language that, at least for now, suggested that the degree to which the employee's psychological well-being is affected by the conduct helps determine whether the conduct is unlawful.**

The U.S. Supreme Court in *Harris* emphasized that determining whether an environment is hostile or abusive requires an examination of all the circumstances. Such an examination would include the frequency of the discriminatory conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance.

INDEX

-A-

AGENDAS

- ANNOTATED 2.12.140
- CONTENT 2.08.030
- DUPLICATION, DISTRIBUTION 2.08.080
- HEADINGS, EXPLANATION 2.08.040
- ORDER OF BUSINESS 2.08.020
- PACKETS
 - Defined, explained 2.08.060
 - Distribution 2.08.090
 - Organization 2.08.070
- PHILOSOPHY, PURPOSE 2.08.010
- PREPARATION SUGGESTIONS 2.08.050

AGREEMENTS See CONTRACTS, AGREEMENTS

AMERICANS WITH DISABILITIES ACT

- COMPLIANCE 7.08.040
- HISTORY 7.08.010
- INFORMATION SOURCES 7.08.050
- PROGRAM ACCESS 7.08.030
- REQUIREMENTS 7.08.020

ANNEXATIONS

- CERTIFICATE 4.16.070
- GENERALLY 4.16.020
- NOTICES
 - Agencies 4.16.080
 - County 4.16.060
 - Public Hearing 4.16.050
 - Review Board 4.16.040
- OVERVIEW 4.16.010
- PROCEDURES 4.16.030
- PUBLIC HEARING 4.16.050
- REVIEW BOARD, NOTICE TO 4.16.040

APPEARANCE OF FAIRNESS

- DOCTRINE 4.08.120

ASSOCIATION OF WASHINGTON CITIES

- BILLS, RECEIVING COPIES OF 6.18.040

LEGISLATIVE BULLETIN 6.18.030

LEGISLATIVE PROCESS

Monitoring 6.18.050

Participation 6.18.060

LOBBYING

Background 6.18.010

Effectiveness 6.18.020

Reporting 6.18.070

-B-

BIDDING REQUIREMENTS

ADVERTISING, NOTICE 4.20.140

ARCHITECTURAL SERVICES 4.20.060

BIDS

Action after submitted and opened 4.20.170

Change orders 4.20.180

Lowest responsible bidder 4.20.190

Performance bond 4.20.150

Irregularities 4.20.160

BRAND NAME, PATENTED ITEM 4.20.110

CONFLICT OF INTEREST 4.20.200

ENGINEERING SERVICES 4.20.060

EXCEPTIONS 4.20.050

FEDERAL GOVERNMENT, PURCHASE FROM 4.20.130

FORCE ACCOUNT 4.20.120

INTERGOVERNMENTAL PURCHASES AND BIDDING 4.20.100

LEASE WITH OPTION TO PURCHASE 4.20.030

OVERVIEW 4.20.010

PUBLIC WORKS

Breaking project into segments 4.20.090

Cost of project, purchase 4.20.080

Defined 4.20.070

REQUIRED WHEN 4.20.020

SMALL WORKS ROSTER 4.20.040

VIOLATION, PENALTIES 4.20.210

BONDS See OATH OF OFFICE

-C-

CALENDAR See FOLLOW-UP SYSTEMS

CITY See GOVERNMENT

CITY CLERK

LEADER See LEADERSHIP
MANAGER See MANAGEMENT
PROFESSION, OLDEST 1.04.010

CONTRACTS, AGREEMENTS

GENERALLY 4.24.010
PUBLIC WORKS CONTRACTS 4.24.020

COUNCIL

AGENDAS See AGENDAS
MEETINGS See MEETINGS
MINUTES See MINUTES

-E-

ELECTIONS

REGISTRATION
By mail 4.10.060
Closing files, notice 4.10.090
New or transfer acknowledged 4.10.080
STATUTORY AUTHORITY 4.10.010

EMERGENCY PREPAREDNESS

PLANNING 3.18.020
PRECAUTIONS 3.18.010
RECOVERY
Initial procedures 3.18.030
Precautions 3.18.040
Specific information 3.18.050

-F-

FAIR LABOR STANDARDS ACT

BENEFITS, MOST FAVORABLE 7.06.040
COLLECTIVE BARGAINING AGREEMENTS
HISTORY 7.06.010
PAYMENT
Exempt employees 7.06.060
Volunteer, employees who 7.06.080
Working holidays 7.06.070
REGULAR RATE OF PAY 7.06.090
REQUIREMENTS 7.06.020

STATE WAGE HOUR LAW 7.06.030
WORK WEEKS, AVERAGING 7.06.100

FOLLOW-UP SYSTEMS

CALENDAR

Community 1.16.040

Internal 1.16.050

COUNCIL ITEMS

Meeting follow-up 2.04.200

Pending 1.16.020

GENERALLY 1.16.010

TICKLER SYSTEM 1.16.030

-G-

GOVERNMENT

CITY, TOWN

Classification 4.04.030

Powers 4.04.020

FORMS OF

Commission 4.04.070

Council-manager 4.04.060

Generally 4.04.040

Mayor-council 4.04.050

Statutory authority 4.04.080

GENERALLY 4.04.010

-H-

HARASSMENT, SEXUAL

COUNSELING

Harassers 7.10.070

Victims 7.10.060

COURT DECISIONS 7.10.080

DEFINITIONS 7.10.020

MANAGERIAL RESPONSIBILITIES 7.10.050

MESSAGES, CULTURAL 7.10.040

PERSPECTIVES 7.10.030

SERIOUSNESS 7.10.010

-I-

INITIATIVES

CERTIFICATION PROCESS 4.14.110

DEFINITIONS 4.14.020

ELECTION DATES 4.14.050

OVERVIEW 4.14.010

PETITION

Form of 4.14.090

Time limits 4.14.100

POWERS

Exercising 4.14.080

Obtaining 4.14.030

PROCESS 4.14.040

RESTRICTIONS 4.14.070

INSURANCE

CLAIMS 5.04.010

RISK MANAGEMENT

Control of risks 5.04.070

Records 5.04.050

Susceptible areas 5.04.060

SUMMONS 5.04.020

TYPES

Available 5.04.030

Recommended areas to be insured 5.04.040

-L-

LEADERSHIP

DEFINITION 1.10.010

EMPOWERMENT 1.10.030

MENTORING 1.10.050

MOTIVATION 1.10.040

SELF-CARE 1.10.060

VS. MANAGEMENT 1.10.020

LEGISLATIVE PROCEDURES

APPEAL PROCEDURES 4.08.140

APPEARANCE OF FAIRNESS DOCTRINE 4.08.120

ATTORNEY, ADVICE 4.08.020

BONDS 4.08.170

CITY/TOWN SEAL 4.08.150

CONFLICT OF INTEREST 4.08.110

FRANCHISES 4.08.160

GENERALLY 4.08.010

HEARING, PUBLIC, REQUIRED WHEN 4.08.100

OATH OF OFFICE 4.08.170

ORDINANCES

Defined, form 4.08.030

- Emergency 4.08.060
- Enacting clauses 4.08.050
- Index 4.08.090
- Required when 4.08.080
- vs. resolution 4.08.070

RESOLUTIONS

- Defined 4.08.040
- Enacting clause 4.08.050
- Index 4.08.090
- vs. ordinance 4.08.070

STREET VACATION 4.08.130

LOBBYING See ASSOCIATION OF WASHINGTON CITIES

-M-

MANAGEMENT

- CONTROLLING 1.08.070
- DIRECTING 1.08.060
- DIVISIONS, FUNCTIONAL 1.08.020
- OFFICE NOTEBOOK, CONTENTS 1.08.080
- ORGANIZING 1.08.040
- PLANNING 1.08.030
- PRINCIPLES, FUNDAMENTAL 1.08.010
- STAFFING 1.08.050

MEDIA

See NEWSPAPERS

ELECTRONIC

- Cable television, using 6.12.040
- Council meeting coverage 6.12.030
- Generally 6.12.010
- Interviews 6.12.020

MEETINGS

- ADJOURNMENT 2.04.190
- ASSISTANCE 2.04.040
- CLERK
 - Of council 2.04.020
 - Role of 2.04.060
- CONDUCT
 - Open public meeting 2.16.070
 - Parliamentary procedure 2.04.050
 - Rules of order 2.04.100

CORRESPONDENCE 2.04.070
COUNCIL CHAMBERS
 Closing 2.04.190
 Preparation 2.04.030
DISTURBANCES 2.04.180
EXECUTIVE SESSIONS 2.04.160
FOLLOW-UP 2.04.200
OPEN PUBLIC MEETINGS ACT
 Applications, exclusions 2.16.030
 Conduct of meeting 2.16.070
 Definitions 2.16.040
 Executive sessions 2.16.080
 Legislative authority 2.16.010
 Minutes 2.16.090
 Place of meeting 2.16.060
 Purpose 2.16.020
 Violations, remedies 2.16.100
PARLIAMENTARY PROCEDURE 2.04.010
PLACE OF 2.16.060
PUBLIC PARTICIPATION 2.04.170
QUORUM DEFINED 2.04.100
RECESSES 2.04.150
RECORDING EQUIPMENT, OPERATION 2.04.080
REGULAR
 Adjourned 2.04.110
 Defined 2.04.120
 Open public meeting 2.16.050
ROBERTS RULES OF ORDER 2.04.010
SPECIAL
 Defined 2.04.130
 Open public meeting 2.16.010
STUDY SESSIONS 2.04.140
VOTE, RECORDING METHODS 2.04.090

MINUTES

ACTION TAKEN, RECORD OF 2.12.070
ADJOURNMENT 2.12.100
APPROVAL OF PREVIOUS 2.12.060
CONTENT 2.12.030
COPIES, DISTRIBUTION 2.12.220
CORRECTIONS 2.12.190
DISCUSSION, DEBATE, ARGUMENTS 2.12.080
EXCERPTS 2.12.200
FORMAT

- Characteristics 2.12.160
- Purpose of 2.12.150
- Standard 2.12.040
- HEARINGS 2.12.090
- INDEXING 2.12.230
- JURISDICTIONAL REQUIREMENTS, COMPLIANCE WITH 2.12.050
- MOTIONS, TYPES OF 2.12.180
- OFFICIAL COPY 2.12.010
- PREPARATION 2.12.130
- PRESERVATION, PERMANENT RECORD 2.12.210
- PURPOSE OF 2.12.020
- REQUIRED 2.12.010
- SIGNATURE OF 2.12.110
- SUMMARY, ANNOTATED AGENDA 2.12.140
- TAPE RECORDINGS, RETENTION 2.12.120

MUNICIPAL HISTORY

- GENERALLY 3.10.010
- LEGISLATIVE HISTORY INDEX 3.10.020

-N-

NEWSPAPERS

- CREDIBILITY 6.08.020
- DEADLINES 6.08.030
- NEWS RELEASE
 - Content 6.08.050
 - Format 6.08.060
- RELATIONSHIPS 6.08.010
- SPOKESPERSON 6.08.040

-O-

OPEN PUBLIC MEETINGS ACT See MEETINGS

OPEN PUBLIC RECORDS ACT See RECORDS, PUBLIC

ORDINANCE See LEGISLATIVE PROCEDURES

-P-

POLICIES, PROCEDURES

- DEFINITIONS 1.12.010
- LEGISLATIVE See LEGISLATIVE PROCEDURES
- OFFICE NOTEBOOK 1.08.080

SUGGESTED POLICIES, PROCEDURES 1.12.020

PUBLIC DISCLOSURE

CITY CLERK'S RESPONSIBILITIES 4.18.040

CONTRIBUTIONS 4.18.030

HISTORY 4.18.010

REPORTING 4.18.020

PUBLIC RECORDS See RECORDS, PUBLIC

PUBLIC RELATIONS

HELPFUL HINTS 6.04.020

MEDIA See MEDIA

NEWSPAPERS See NEWSPAPERS

PHILOSOPHY 6.04.010

-R-

RECORDS, PUBLIC

ARCHIVAL VALUE 3.08.180

CUSTODY 3.08.070

DEFINED 3.08.050

DESTRUCTION METHODS 3.08.140

DISPOSITION

Generally 3.08.080

Records not covered by general schedule 3.08.260

LOCAL RECORDS COMMITTEE 3.08.090

MANAGEMENT

Defined 3.08.030

Generally 3.08.010

Legal requirement 3.08.040

Program, objective 3.08.020

MICROFILM

Copies 3.08.120

Use of 3.08.190

OPEN PUBLIC RECORDS ACT

Access 3.04.060

Defined 3.04.030

Exemptions 3.04.050

Legislative authority 3.04.010

Public agency duties 3.04.040

Purpose 3.04.020

OPTICAL IMAGING

Copies 3.08.120

Use of 3.08.190

PUBLIC PROPERTY 3.08.060

RETENTION SCHEDULE

Adoption authority 3.08.110

Defined 3.08.150

Disposition remarks 3.08.210

Distribution 3.08.240

Elements 3.08.160

Establishment 3.08.100

General records schedule 3.08.220

Internal working schedules, formulation 3.08.230

Microfilm use 3.08.190

Optical imaging 3.08.190

PRIMARY, SECONDARY COPIES 3.08.170

Records not covered, disposition 3.08.270

Retention period 3.08.200

STATE ARCHIVES

Assistance 3.08.280

Regional branches 3.08.250

Transfer to, authority 3.08.130

REFERENDUMS See INITIATIVES

BALLOT TITLE 4.14.120

ORDINANCES NOT SUBJECT TO 4.16.060

RESOLUTIONS See LEGISLATIVE PROCEDURES

RISK MANAGEMENT See INSURANCE

-S-

SYSTEMS, FOLLOW-UP See FOLLOW-UP SYSTEMS

-T-

TOWN See GOVERNMENT

-V-

VOLUNTEERS

APPLICATIONS 6.14.020

BUDGETARY IMPACTS 6.14.060

EMPLOYEES, UNPAID 6.14.040

INTERVIEWS 6.14.030

LIABILITIES 6.14.050

RECOGNITION 6.14.070

USAGE 6.14.010

VOTING

ABSENTEE 4.10.070

VOTERS PAMPHLET

Administrative rules 4.12.030

Arguments, preparation of 4.12.040

Overview 4.12.010

Production, notice of 4.12.020

Public Disclosure Commission, registration with 4.12.050

Chapter 9.04 Abbreviations

-A-

AAE - Academy for Advanced Education
ADA - Americans with Disabilities Act
AARP - American Association of Retired Persons
ACLU - American Civil Liberties Union
ACORN - Association of Community Organizations for Reform Now
ADC - Aid to Dependent Children
AFDC - Aid to Families with Dependent Children
AFSCME - American Federal, State, County, and Municipal Employees
AG - Attorney General
ASHERA - Asbestos Hazard Emergency Response Act of 1986
AIM - American Indian Movement
AIP - Apartment Improvement Program
A/K/A - also known as
APA - American Planning Association
APWA - American Public Works Association
ARC - Association for Retarded Citizens
AWC - Association of Washington Cities
A-95 - Grant Review Clearinghouse

-B-

BAN - Bond Anticipation Notes
BFOQ'S - Bona Fide Occupational Qualifications
BOA - Board of Adjustment
BOD - Biochemical Oxygen Demand
BP 1, 2, 3, 4 - Budget Preparation Forms
BTU - British Thermal Unit

-C-

CAB - Central Advisory Board
CAC - Citizens Advisory Committee
CATV - Cable Access Television
CCI - Citizens for Community Improvement
CD - Certificate of Deposit
CDBG - Community Development Block Grant
CEBA - Community Economic Betterment Account
CED - Corporation for Economic Development
CEPP - Community Economic Preparedness Program
CFN - Community Food & Nutrition Program

CHAP - Comprehensive Homeless Assistance Plan
CIP - Capital Improvements (or Investments) Program (City)
CMC - Certified Municipal Clerk
CO - Certificate of Occupancy
COBRA - Consolidated Omnibus Budget Reconciliation Act
COG - Council of Governments
CP - Citizen Participation
CPA - Certified Public Accountant
CPR - Cardio Pulmonary Resuscitation
CSA - Community Services Administration
CSBG - Community Services Block Grant

-D-

D/B/A - doing business as
DDA - Downtown Development Authority
DEIS - Draft Environmental Impact Statement
DEP - Department of Environmental Protection
DEQ - Department of Environmental Quality
DHHS - Department of Health and Human Services
DNR - Department of Natural Resources (State)
DNS - Determination of Non-significance
DOE - Department of Energy (Federal)
DOL - Department of Labor (Federal)
DOT - Department of Transportation (State)
DWAM - Department of Water Air and Waste Management

-E-

EDA - Environmental Development Association
EEOC - Equal Employment Opportunity Commission (Federal)
EIS - Environmental Impact Statement
EPA - Environmental Protection Agency
ESG - Emergency Shelter Grant

-F-

FAA - Federal Aviation Administration
FNMA - Fannie Mae Federal National Mortgage Association
FAR - Floor Area Ratio
FAUS - Federal Aid to Urban Systems
FBE - Female Business Enterprise
FCC - Federal Communications Commission
FDA - Federal Drug Administration

FDIC - Federal Deposit Insurance Corporation
FDS - Family Development Specialist
FEMA - Federal Emergency Management Agency
FHA - Federal Housing Agency
FICA - Federal Insurance Contribution Act
FLSA - Fair Labor Standards Act
FmHA - Farmers Home Administration
FOAB - Federal Old Age Benefits
FONSI - Findings of No Significant Impact
FOSI - Findings of Significant Impact
FRS - Federal Revenue Sharing
FSLIC - Federal Savings and Loan Insurance Corporation
FTD - Federal Tax Deposit
FUTA - Federal Unemployment Tax Act

-G-

GAAP - Generally Accepted Accounting Principles
GAN - Grant Anticipation Notes
Ginnie Mae - Government Insurance Mortgages
GMA - Growth Management Act
GO - General Obligation
GPR - Grantee Performance Report

-H-

HA - Housing Authority
HAP - Housing Assistance Plan
HE - Hearing Examiner
HELPER - Helping Elderly & Low Income People with Energy Relief (State)
HER - Hispanic Education Resources
HEW - Health, Education and Welfare
HHS - Department of Health & Human Services (Federal)
HILP - Home Improvement Loan Program
HODAG - Housing Development Action Grant
HOME - Home Opportunities Made Easy
HSCB - Human Services Coordinating Board
HUD - Department of Housing and Urban Development (federal)
HURF - Highway User Fund

-I-

ICMA - International City Management Association
IDB - Industrial Development Bonds

IIMC - International Institute of Municipal Clerks
INS - Immigration and Naturalization Service
IRA - Individual Retirement Account
IRS - Internal Revenue Service
ISO - Insurance Service Office

-J-

JTPA - Job Training Partnership Act

-L-

LEA - Law Enforcement Agency
LMI - Low and Moderate Income
LRHA - Low Rent Housing Authority
LSC - Legal Services Corporation
LULAC - League of United Latin American Citizens

-M-

MBE - Minority Business Enterprise
MFOA - Municipal Finance Officers Association

-N-

NAACP - National Association for the Advancement of Colored People
NAHRO - National Association of Housing and Redevelopment Officials
NCCJ - National Conference of Christians and Jews
NCDA - National Community Development Association
NEPA - National Environmental Policy Act
NFIP - National Flood Insurance Program
NOFA - Notice of Funding Availability

-O-

OAA - Old Age Assistance (State)
OAA - Older Americans Act
OASI - Old Age Survivors Insurance
ODS - Office of Disaster Services
OMB - Office of Management & Budget (Federal)
OPP - Office of Planning and Programming

-P-

PAC - Political Action Committee
PHA - Public Housing Authority
PIC - Private Industry Council
PO - Purchase Order
PPS - Payment Planning Service
PSS - Project Self-Sufficiency
P & Z - Planning and Zoning

-R-

RAP - Recreational Activities Program
RC&D - Resource, Conservation and Development
REC - Rural Electric Cooperative
RFP - Request for Proposal
RFQ - Request for Qualifications
RLF - Revolving Loan Fund
RPC - Regional Planning Commission
RTA - Regional Transit Authority
RUT - Road Use Tax
RWA - Rural Water Association

-S-

SBA - Small Business Administration (federal)
Section 8 - Low Income Housing (federal)
SEPA - State Environmental Protection Act
SOTAF - Society of Thai Dam American Friendship
SOP - Standard Operating Procedure
SRO - Standing room only
SSA - Social Security Administration
SSBG - Social Services Block Grant
SSI - Supplemental Security Income

-T-

T/A - Technical Assistance
T & A - Trust and Agency
T-Bills - Treasury Bills
TEFAP - Temporary Emergency Food Assistance Program
TEFRA - Tax Equity & Fiscal Responsibility Act
TIF - Tax Increment Financing
TIN - Taxpayers Identifying Number

-U-

UBC - Uniform Building Code
UDAG - Urban Development Action Grant
UEC - Uniform Electrical Code
UFC - Uniform Fire Code
UPC - Uniform Plumbing Code
URA - Urban Renewal Authority
USDA - U.S. Department of Agriculture

-V-

VA - Veterans Administration
VISTA - Volunteers in Service to America

-W-

WIC - Women, Infants, Children Nutrition Program
WIN - Work Incentive Program
W-2 - Earnings Statement
W-4 - Withholding Statement

-X-

-Y-

-Z-

911 - Emergency Telephone Service

CHAPTER 9.08 Gender-Neutral Language

Gender-neutral language differs from feminist language which emphasizes the role of women. Gender-neutral language gives equal importance to males and females. Gender-neutral language ignores gender and stresses the position. If respect is to be given to the position rather than the person, gender-neutral language is necessary. Fortunately the English language contains a more than adequate supply of very good words which are gender-neutral.

The feminist movement and carelessness have caused interesting things to happen to the English language. In some of the more extreme instances, all words containing combinations of letters "man" and/or "men" were damned. Words such as "manufacture," "manual," and "manuscript" were on the feminist hit list. Since the root of these words is the Latin "manu," meaning hand, which has nothing to do with the male of the species, common sense dictates there is no problem using these words.

In Old English, the suffix "er" on a noun indicated masculine gender. Such words as engineer, speaker writer, voter, teacher, master, joker, as well as all the other nouns ending in "er," referred to men. All gender implication had been lost from these words long ago; and they are now considered to be gender-neutral. Nouns with the suffix "or" also originally indicated the masculine: actor, author, auditor, conductor, etc. The female of the species refused to admit she could not be a writer or an actor, so someone decided to add the British "ess" ending to certain words to show that some women at least could function in fields commonly dominated by men (thus, words like "actress" and "authoress"). This type of word is also dropping out of use. "Bachelor" and "Master" when used with Degree are acceptable. "She has her Master's Degree in International Relations" proclaims that a particular woman has attained mastery (also acceptable in this sense) of a particular field of study.

Present evolution also tends to drop the gender endings derived from the French. Men used to be blond, while women were blonde. Now, a blond is a blond; and a brunet is a brunet, not brunette.

A culprit can't be found to blame for constructions such as councilperson, chairperson, assemblyperson. Any compound noun with the suffix "person" suggests the being referred to is a female. If a man is a congressman, or a councilman, or a chairman, he uses the term that describes his position. Words such as "work person", "newsperson" and "spokesperson" simply call attention to the fact that the individual holding the position is a female.

The implication is that a councilperson is somehow different from a councilman and is perhaps a bit lower on the totem pole. Perhaps the councilperson need not be taken quite as seriously as a councilman, and perhaps the councilperson does not have quite the responsibility and/or authority of a councilman. Avoid using nouns ending in "person".

The masculine pronoun "he" is often used as a generic pronoun. Such use is grammatically correct. It is also rationalized by including a disclaimer similar to this: "The masculine gender where appearing in the Plan, shall be deemed to include the feminine gender unless the context clearly indicates to the contrary." Nevertheless, females of all ages tend to resent being referred to in an abstract generic. Although avoiding the use of the masculine pronoun "he" calls for a bit of thinking before speaking or writing, like anything else, after a little practice, it can become habit.

The masculine pronoun can be replaced with an indefinite article: "Every employee is entitled to his opinion" becomes "Every employee is entitled to an opinion". Changing the singular noun to a plural and using a plural pronoun results in: "Employees are entitled to their opinions". There are numerous ways to eliminate use of the masculine pronoun.

Use the gender-specific pronoun when it is appropriate. "The petitioner said he....." Councilor Travsky said she...."

Some nouns hold their status whether the person is male or female: words like "governor" "mayor" and "senator." Few female governors want any other title (unless it be president).

The following list identifies many gender-neutral words now coming into use:

GENDER-NEUTRAL WORDS INSTEAD OF

administrator, chief administrative officer	manager
anchor, commentator, reporter	newsman
animal control officer	dogcatcher
artificial, constructed	man-made
assembly member, member of the assembly, representative	assemblyman
assistant, office assistant, staff member	NEVER call anyone over 13 years of age "boy" or "girl"
assistant, aide	right-hand man
average person	man in the street
chair, committee head, moderator, coordinator Note: The use of "chair" as both a noun and verb is standard usage in both the United Kingdom and the United States. The use was started in the British Parliament over 200 years ago.	chairman
chair (verb)	to chairman
city leaders, city founders, city elders, city officials, bureaucrats	city fathers
committee member	committeeman, committee woman
councilor	councilman, alderman
co-worker, colleague, associate	fellow worker
detective, plainclothes officer	plainclothesman
drafter, designer	draftsman
expert builder	master builder
filter tender, filter operator	filterman
firefighter	fireman

flagger, signaller	flagman
graduates, former students	alumna, alumnae
gas fitter	gasman
host leader, emcee (emcee is acceptable because it could be either master or mistress of ceremonies)	Master of Ceremonies
janitor, maintenance worker	handyman
key individual	key man
mail carrier, postal worker, mail clerk	mailman
maintenance mechanic, maintenance worker, maintenance specialist	maintenance man
member of the public, member of the laity	layman
merchant, professional, member of the business community, entrepreneur	businessman
meter reader	meter man
newspaper vendor, news carrier	newspaper boy
night watch, night guard	night watchman
office worker (or specific title)	office boy or office girl
parking meter attendance, traffic control officer	meter maid
people, persons, individual(s), the public citizens, taxpayers, voters	man or men (generic)
police officer, peace officer	policeman
political leader, diplomat	statesman
property owner, manager	landlord
ranger, farmer, cattle owner	cattleman
prudent person	prudent man
refuse collector, sanitation worker	garbage man
speaker, representative, voice	spokesman
spouse	wife, husband
staff, operate, run, supply	to man (verb)
student, university student	coed
sales representative, sales agent	salesman
supervisor, line manager, lead supervisor, monitor	foreman

technician	repairman
unanimously	as one man
worker, laborer, employee	working man
worker's compensation	workman's compensation

CHAPTER 9.12 Definition of Terms

- abandonment - given up completely
- abatement - the method of reducing the degree of pollution; value - a deduction from the full amount of a tax
- absentee ballot - the method by which a voter may cast a ballot other than at the polls on election day
- abstain - the practice of exercising discretion to relinquish the right to vote when necessary to avoid needless conflict (see conflict of interest)
- abut - to be contiguous or next to; to touch at the end; join at a border or boundary
- accept - adopt, approve, agree to
- accessory building - a detached building which is incidental, subordinate and exclusively devoted to a main building or use, located on the same lot
- Act of God - an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight
- acre-foot - a quantity of water that would cover 1 acre to a depth of 1 foot, that is 43,560 cubic feet or 325,850 gallons
- ad hoc - for a particular purpose, for a limited time
- adopt - approve, agreed to, accept
- ad valorem tax - a tax levied on the assessed value of real property (also known as "property tax")
- administrative - pertaining to management and carrying out of laws and functions, as opposed to legislative and judicial
- advance poll - a day or days established for purposes of voting prior to the regular polling on election day
- adverse land use impact - effects of land uses such as noise, odor, glare and other related impacts which negatively affect the health, safety and welfare of community residents
- advisory - in risk assessment, a non-regulatory document that communicates risk information to persons who may have to make risk management decisions
- agenda - an outlined plan of an entire business session; an order of business
- air quality assessment/statement - measurement evaluation and report of data relating to air pollution of a prescribed area
- air quality criteria/standard - the levels of pollutant's length of exposure at which detrimental effects on health and welfare occur

- alley - a dedicated way which affords secondary access to the side or rear of abutting property
- allocation of funds - to set aside funds for a specific purpose or program
- amendment - a change or addition which changes the meaning or scope of an original formal document, usually laws or regulations, but can include plans or specifications
- amicus curiae - a legal brief filed by a governmental agency in support of another person's or agency's position relating to an existing issue, commonly referred to as a friend of the court brief
- annexation - the process by which a municipality, upon meeting certain requirements, expands its incorporated limits
- appeal - a request for the transference of a case to a higher body for rehearing
- appropriation - a sum of money authorized by a legislative body to be spent for a specific purpose
- aquifer - an underground bed or stratum of earth, gravel or porous stone that contains water
- arbitrage bond - a bond issued at a low interest rate invested at a higher interest rate
- arbitrator - one called upon to decide an issue (as opposed to mediator)
- arbitration - the hearing and determination of a case in controversy by a person chosen by the parties or appointed under statutory authority
- archives - a place in which public records or historical documents are preserved
- assessed value - a valuation set upon real estate or other property by the assessor as a basis for levying taxes
- asset - resources of a government that have monetary value
- audit - an examination of the financial activities of an agency and the report based on such examination
- authority - a person or group having the right and power to command, decide, rule or judge
- autonomy - independence; a self-governing entity
- backfill - material used to refill a ditch or other excavation, or the process of doing so
- balanced budget - a budget in which estimated revenues equal estimated expenditures
- ballot - any material on which votes may be cast for candidates or measures
- base flood - the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as shown on the Federal Insurance Administration Flood Hazard Boundary Map
- base flood elevation - the highest elevation, expressed in the feet above sea level, of the level of flood waters occurring in the regulatory base flood
- basin - a hollow or trough in the earth's crust where areas dip in all directions to a central point, whether filled by water or not
- berm - levee - a mound of earth used to shield and buffer uses such as parking areas; also serves to control the direction of water flow and acts as a dam
- bearer bond - a bond without an identified owner
- BFOQ'S - bona fide occupational qualifications for determining job applicant suitability
- bid - formal quotation, based on common specifications, for the provision of goods or services; opened at public for meeting consideration and award

- bid bond - bid security submitted by bidder to guarantee that a bidder will enter into a contract within a specified time and furnish any required performance bond
- block - a tract of land bounded by dedicated streets
- bi-partisan - representing two parties, in the United States usually Democrats and Republicans
- board of adjustment - zoning board - an officially constituted body whose principal duties are to consider variances from the strict application of the zoning ordinance
- bond - an interest bearing certificate issued by a government or business, redeemable on a specific date; used as a measure of raising funds for capital improvements
- boundaries - any separation, natural or artificial, which marks the confines or line of division of two contiguous properties; limits stated in title deed if possession be under title
- BTU - British Thermal Unit - a unit of heat equal to 252 calories, the quantity of heat required to raise the temperature of one pound of water one degree fahrenheit.
- budget (operating)- a comprehensive financial plan to sustain municipal operations during a given year with related explanation
- buffer - a strip of land, vegetation and/or opaque wall that sufficiently minimizes the physical or visual intrusion generated by an existing or future use
- building setback line - a line establishing a minimum allowable distance between the nearest portion of building projection and street lot line and lot line
- by-law - a rule adopted by an organization chiefly for the government of its members and the regulation of its affairs
- call for the question - term used to end the discussion and vote on the motion
- candidate - a person who is qualified and has filed to run for elected office
- capital budget - a spending plan for improvements and acquisitions of significant value and a useful life of more than one year
- capital improvement - a government acquisition of real property, major construction project, or acquisition of long lasting, expensive equipment
- capital improvements - physical assets, constructed or purchased, that have a minimum useful life of ten years and a minimum cost of \$10,000 or a minimum cost of \$25,000 and a minimum useful life of three years
- capital improvement budget - a budget including those approved capital improvements contained in the first year of the five-year Capital Improvement Program
- capital improvement funds - a long range program to provide for the purchase or construction of major items, i.e., fire trucks, streets and buildings, along with a schedule for receipt and payments of those funds
- capital reserve fund - used to account for financial resources to be used for the acquisition or construction of major capital facilities (other than those financed by proprietary or trust funds)
- capital outlay - expenditures made to acquire fixed assets or additions to them usually made from the general fund or utility fund where the assets are to be used
- cash flow - process of managing cash balances to ensure funds are adequate to pay bills
- catch basin - an inlet designed to intercept and redirect surface waters

- caucus - a meeting of the legal voters of any political party assembled for the purpose of choosing delegates or for the nomination of candidates for office
- census - a count of the population and a property evaluation; a complete enumeration of a population; a periodic governmental enumeration of a population
- certificate of occupancy - a document granting permission to occupy or use building or land and certifying that the structure or use conforms to the requirements set forth in applicable codes and ordinances
- certificate of convenience and need - a document issued for the establishment of a service in a specific geographical area, usually based on population and/or the lack of service
- certification - a formal, written declaration that certain facts are true and valid
- certified copy - a certified extract of an official record sealed by the appropriate government official
- certify - to testify; make known in writing as a fact
- chair - the presiding officer; the place or station of the presiding officer
- charter - a written instrument that creates and has powers, rights and privileges for a specific jurisdiction or organization
- cite - to summon; to command the presence of a person, to notify a person of legal proceedings against him/her and require his/her appearance
- civil service - competitive process for selecting employees; appointments governed by competitive selection process
- civil suit/action - action brought to enforce or protect private rights; all types of actions other than criminal
- closed session - see executive session
- closing date - the last day to file required documents in order to run for elective office, nomination petition, declaration of candidacy, financial statements; also, last date to register to vote and submit bids
- code - a systematic statement of a body of law given by statutory authority
- codification code - any or all ordinances of a municipality which have been enacted that are compiled, consolidated, revised, indexed and arranged in a comprehensive manner
- collective bargaining - negotiations by an organized group to procure an employment agreement for such items as wages, benefits and working conditions
- compliance action/order - an order or action issued by an administrator which requires any person who is not complying with a specific requirement to take steps to come into compliance
- computation of time - the time within which an act is to be done; computed by excluding the first and including the last day, and if the last day falls on a Saturday, Sunday, or legal holiday, that shall be excluded-- may vary from jurisdiction to jurisdiction
- condemnation - the process of taking private property for public use through the power of eminent domain conditional use
- conflict of interest - a term used in connection with a public official's relationship to matters of private interest or personal gain and which prohibits participation in the discussion under decision

- consanguinity - of the same blood; related
- consensus - quality or condition of being in mutual agreement
- consent agenda - a policy of the governing body to approve, in one motion, routine and/or non-controversial items, as determined prior to the meeting; if discussion is desired by a councilmember, items can be removed from the consent agenda and placed elsewhere
- consolidation/boundary adjustment - merger of two or more municipal jurisdictions or parts thereof into a new unit of specifically defined physical boundaries
- constituent - a person served by an elected official, normally a voter or resident
- contiguous - sharing a common boundary
- contingency - an appropriation of funds to handle unexpected events and emergencies which occur during the course of the fiscal year
- contract - an agreement between two parties which creates an obligation to do or not to do a particular thing
- cooperative purchasing - procurement conducted by or on behalf of more than one public agency
- cottage industry - see home occupation
- coupon - the detachable part of a bond which serves as proof of interest due
- culvert - a ditch or conduit not incorporated in a closed system that carries drainage water under a driveway, roadway, railroad or pedestrian walk
- custodian of records - any authorized person having personal custody, maintenance and control of public records
- debentures - a certificate of indebtedness, e.g., bond issue to provide capital fundings and re-payable over a specified period of time
- debt limit - the maximum amount of debt that a governmental unit may incur under constitutional, statutory, or charter requirements
- debt service - payments to creditors, primarily the holders of municipal bonds; debt service includes principal, interest, and minor incidentals such as paying agents' fees
- debt service fund - established to account for the accumulation of money providing for the retirement of bonds and the payment of interest
- dedication - appropriation of land by the owner for the use of the public and accepted for such use by or on behalf of the public
- deed - a legal document conveying ownership of real property

quit claim - used to release one person's right, title or interest without providing a guarantee or warranty of title

warranty - guarantees that the title to the property is free and clear of all liens and encumbrances

- deed restriction - see restrictive covenant
- defendant - the person denying; a party against whom relief is sought in an action or suit; the accused in a criminal case
- deficit - the excess of expenditures over revenues for a fiscal period

- density - the number of families, individuals, dwelling units, or housing structures per unit of land
- depreciation - the decrease in value of physical assets due to use and the passage of time
- developer - legal beneficial persons having enforceable proprietary interest in a designated piece of property
- development - a physical change, exclusive of new construction and substantial improvement, to improved or unimproved real estate, including, but not limited to mining, dredging, filling, grading, paving, excavating or drilling operations
- development plan - specific guidelines, requirements or policies for planned growth
- division of the assembly - a motion requiring that a vote taken by voice or by show of hands be retaken by rising
- easement - an interest in land owned by another that entitles its holder to a specific limited use or enjoyment
- effluent - a term applied to the water discharged from a sewage treatment device
- egress - an exit
- election petitions - the documents required by law containing the necessary signatures to place a candidate's name or measure/proposition on the ballot
- elector - an individual meeting the qualifications to vote
- emergency measure - an ordinance recognized by the legislative body as requiring immediate passage
- eminent domain - the power to take private property for public use by the state, municipalities, and private persons or corporations authorized to exercise functions of public character
- enact - to establish by law
- enactments - commitments related to unperformed contracts for goods or other purposes
- encroach - to trespass or intrude on the rights or possessions of another
- enterprise lands - used to finance and account for acquisition, operation and maintenance of water and sewer facilities which are supported by user charges; also waste disposal, other utilities
- EEO - Equal Employment Opportunity - Affirmative Action - federal and state laws requiring local government to take native action in employing protected classes, including minorities, females and the handicapped
- executive session - a meeting closed to the public which complies with specific state statutes
- ex officio - "From the office" or by virtue of the office; bylaws frequently provide that the president shall be an ex-officio member of all committees except the nominating committee
- expenditures - the spending of money by the municipality for the programs and projects included within the approved budget
- expropriation - see eminent domain

- extraterritorial jurisdiction - authority granted by a state legislature for jurisdiction beyond a municipal corporate boundary for an expressed purpose: ie., regional water system, regional sewer system
- feasibility study - a preliminary survey to determine the design, aesthetics, construction and economic aspects of a proposed project
- federal entitlements - a payment to which a local government is entitled as determined by the federal government pursuant to an allocation formula contained in applicable statutes
- federal grants - a contribution of cash from the federal government to be used or expended for a specified purpose, or activity
- facility fiduciary - one who is appointed or elected to act in a capacity as a trustee or agent on behalf of another party
- financial planning - process of preparing expenditure forecasts and revising existing and alternative revenue sources and rate structures
- flood plain - the area along a natural watercourse subject to periodic overflow by water
- findings of fact - determinations from the evidence of a case either by court or an administrative agency, concerning facts alleged by one party and denied by another
- fiscal year - any twelve-month period established as the period of operations for the governmental unit
- floor area ratio - F.A.R. - the ratio of the total floor area permitted in a structure to the area of the lot on which the structure is situated
- floor, obtain the - securing recognition by the chair as having the right to speak in a meeting
- foreclosure - procedure by which property is sold to satisfy a lien
- franchise - a privilege conferred by government approval to an individual or firm to market goods or services in a particular area, generally for an extended period
- franchise fee - a percent of profit to grantor of franchise
- frontage - the extent of front along road or street
- fund - a set of interrelated accounts to record revenues and expenditures associated with a specific purpose
- fund balance - the excess of fund assets over liabilities and reserves also referred to as surplus
- general consent - unanimous consent; informal agreement of the assembly; the chair asks if there is any objection to a certain procedure; silence gives consent
- general fund - the general operating fund of the municipality used to account for all financial resources except those required to be accounted for in a special fund
- general obligation bond - (GO - Bond) - a financial instrument giving borrowing power to a municipality, based upon pledging of taxing power to retire the debt and pay interest
- germane - closely related; of the same subject matter; for example, an amendment must be germane to the motion to which it is applied
- grants - funds or other assets from another source to be used for a specific purpose, activity or facility which may be classified as either categorical or block, depending on the amount of discretion allowed the grantee

- home occupation - any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of that dwelling for residential purposes and which does not change the character thereof
- home rule - exercise of power at the local government level to determine local affairs of government, upon acceptance of the terms set by the state legislature
- impact fees - set aside fees collected from developers causing infrastructure adjustments to the community; monies to be used as the development further impacts the municipality
- impeachment - a proceeding against a public officer before a quasi-political court, instituted by written accusation called "articles of impeachment"
- improvements - those physical changes to the land necessary to produce usable and desirable lots from raw acreage including but not limited to grading, paving, curbs, gutters
- incidental motions - motions which deal with questions of procedure arising out of other motions or items of business
- incorporation - means that a community has a status recognized by law; geographic boundaries are established, and power to act granted subject to limitations
- incumbent - (office holder) - person currently holding office
- infrastructure - the facilities and systems shared or used by all citizens such as transportation, water supply, wastewater and solid waste disposal systems
- ingress - access or entry
- initiative - the people's right to initiate a measure, issue or question to be voted on by the people
- injunction - a legal order or direction; a writ requiring a person to refrain from doing certain action
- interfund transfer - payment from one fund to another fund primarily for work or services provided
- intergovernmental agreements - contracts between two or more public agencies for the joint exercise of powers common to the agencies
- intergovernmental revenues - revenues from other governments in the form of grants, entitlements, shared revenues, or payments in lieu of taxes
- internal service fund - funds used to account for the financing of goods or services provided by one department to another on a cost reimbursement basis
- inverse condemnation - a cause of action against a government agency to recover the value of property taken by the agency through no formal eminent domain action
- invitation for bid - a notice and related information from a municipality requesting bids for purchase of goods or services excluding professional services
- issue - see proposition
- judicial - the power to judge, to administer justice and interpret laws and ordinances
- jurisdiction - authority by which courts and judicial offices take cognizance of and decide cases; the legal right by which authority is exercised
- leachate - liquid that has percolated through solid waste or other mediums from which dissolved or suspended materials have been extracted

- legislative - pertaining to the power to make laws, as opposed to administrative, executive and judicial
- legislative proceedings - action which is upheld by the courts, unless it was unauthorized, unconstitutional, or the result of arbitrary and capricious action
- liability - all character of debt and obligation, responsibility; an obligation one is bound in law or justice to perform
- liaison - communication for establishing and maintaining mutual understanding; someone who establishes or maintains that communication or understanding
- license - formal permission from a constituted authority to carry on an activity
- lien - a claim or charge on property for payment of debt, obligation or duty
- line item - a specific item or group of similar items defined by detail in a unique account in the financial records.; revenue, expenditure and justifications are reviewed, anticipated and appropriated at this level
- litigation - a lawsuit; legal action, including all proceedings therein
- local improvement - a public improvement provided to a specific area which benefits that area, usually paid for by special assessment of benefitting property owners
- lot - a portion or parcel of land considered as a legal unit
- main motion - a motion that introduces business to an assembly
- maintenance guarantee - any security which may be required and accepted by a governmental agency to assure that necessary improvements will function as required for a specific period of time
- majority - a number greater than half; a majority vote is over half the votes cast
- malfeasance - improperly performing a lawful act
- mandamus - (writ of) - order compelling public official to do something or not do something
- master plan - a comprehensive long-range plan intended to guide the growth and development of a community or region and one that includes analysis, recommendations and proposals for the community's population, economy, housing, transportation, community facilities and land use
- measure - see proposition
- media - a form of mass communication, such as radio, television and newspaper
- mediator - one who interposes between disputing parties for purposes of reconciliation; has no formal decision-making powers
- meeting - the convening of a public body to discuss and/or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power
- metes and bounds - a method of describing the boundaries of land by directions and distances from a known point of reference
- mill - a term used to express the property tax rate (one mill is one-tenth of a cent, thus ten mills equal one cent or one percent)
- minutes - a summary of actions taken at a meeting and the vote on each item
- misfeasance - the performing of a lawful act in an unlawful manner
- mixed use - more than one zoning use in a designated area, i.e., light industrial, residential, commercial

- modified accrual accounting - a basis of accounting in which revenues are recorded when collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period, and expenditures which are recognized when the related liability is incurred
- motion - a statement of intent by the governing body
- municipality - a political unit having corporate status and, usually, powers of self-government
- negligence - failure to exercise prudent care
- non-conforming - a use which does not comply with present zoning conditions but which existed lawfully and was created in good faith prior to the enactment of the zoning provisions
- non-feasance in office - failing to perform a required duty
- non-operating expenditures - the costs of government services which are not directly attributable to a specific municipal program or operation, examples include debt service obligations and contributions to human service organizations
- non-operating revenues - the incomes received by the government which are not directly attributable to providing a service; an example would be interest on investments
- non-partisan - representing no party
- notary public - a public officer whose function it is to administer oaths, to attest and certify, by hand and official seal, on certain classes of documents, to give them credit and authenticity
- nuisance - activity which arises from unreasonable, unwarranted or unlawful use of property which would cause annoyance, inconvenience or discomfort
- oath of office - a sworn declaration to uphold the law and to loyally, impartially and to the best of the individual's ability, discharge all the duties of office
- object code - a numerical suffix to an account number which represents a defined object or item within an account group
- open space - any parcel or area of land or water essentially unimproved and set aside, dedicated, designed or reserved for public or private use
- operating budget - a financial plan which presents proposed expenditures for the fiscal year and estimates of revenue to finance them
- operating expenses - proprietary fund expenses which are directly related to the fund's primary service activities
- operating revenues - proprietary fund revenues which are directly related to the fund's primary service activities
- order - adoption of findings for a decision
- ordinance - an enforceable municipal law, statute or regulation which applies to all citizens within that municipality; penalty provisions may apply
- overlay district - a district which is created and intended to restrict and regulate property and property usage in addition to other zoning district requirements
- partisan - supporter of a particular party
- paying agent - a bank or other institution usually in a financial center which acts as the agent for the governing authority in making bond interest and principal payments

- payments in lieu of taxes - payments by another unit of government to the reporting government in lieu of taxes that it would have had to pay if its property or other tax base had been subject to taxation by the reporting government
- percolation test - a field test conducted to determine the absorption capacity of soil to a specific depth in a given location for the purpose of determining suitabilities of soil for on-site sewage disposal
- pecuniary - consisting of or measured in money; of or relating to money
- pending - not yet decided; being in continuance; a motion is "pending" after it has been stated by the chair and until it is disposed of temporarily or permanently
- performance bond - bond from a contractor which guarantees the work/services will be performed in accordance with the contract
- permit - any document which grants a person the right to do something; a license or grant of authority
- permitted use - allowable use within a land use district subject to the restrictions of that district
- personal privilege - the right of a member of the governing body to address the governing body on a question limited to cases in which his/her integrity, character or motives are assailed, questioned or impugned
- PHA - Public Housing Authority - the agency which oversees construction, purchase ownership and rental of public housing for low-income families
- plaintiff - person who brings a suit before a court of law
- planning commission - a planning agency of local volunteers authorized by law to prepare and recommend plans for the development of physical, social, economic and cultural resources and facilities within a unit of government
- planned residential development - an extension of cluster developments including detached, semidetached, attached and multi-storied structures, and may include land uses other than residential to the extent they are designed to serve the residents
- plat - a map representing a tract of land, showing the boundaries and location of individual properties and streets
- plume - the visible emission from a flue or chimney
- plurality vote - the largest number of votes received by a candidate or proposition when three or more choices are possible; a plurality vote never decides a question or election except by specific rule of the organization
- political action committee - a committee formed to support or oppose any candidate, measure, issue or question
- polls - the location used by electors to cast their ballots
- precedence, takes - outranks, used in reference to the order in which motions can be introduced and must be considered by the assembly
- precinct - any geographical district
- pre-exemption - the preclusion of local government regulation completely or in part
- privileged motions - a class of motions which, although they are not directly concerned with the business before the assembly, are of such immediate importance that they have the privilege of interrupting the consideration of anything else; all motions of this class are non-debatable

- procurement - the buying, purchasing, renting, leasing, or otherwise obtaining any supplies, services, construction or other item
- property tax- a tax levied on the assessed value of real property
- proposition - a proposed law, revision or amendment submitted to the voters at an election for approval or rejection
- pro-tem - for the time being; temporarily; provisionally; e.g., Mayor Pro-Tem (acts in the absence of Mayor)
- public body - any department, agency, commission, committee, board, council, bureau, or authority created to decide or deliberate on public matters
- public disclosure - regulation providing that public records shall be open to inspection by any person during regular office hours
- public hearing - provides citizens the opportunity to express their position on a specific issue, both pro and con, as mandated by either statute or by order of proper authority after due notice
- public meeting - any meeting of a governmental body at which public business is discussed, decided or policy formulated
- public notice - notice given to the general public commonly published in a newspaper of general circulation
- public record - any record retained by a government body as further defined by statute and open to inspection
- public relations - the business of inducing the public to have understanding for and goodwill toward a person, firm, institution, or government
- putting the question - putting the motion to a vote
- quasi-judicial - a governmental body that hears sworn testimony, obtains evidence and provides for cross examination of witnesses, with the decision based solely on the evidence presented
- quorum - the prescribed number of members of any body that must be present to legally transact business; the quorum is a majority of all members unless the bylaws state otherwise
- quo warranto - impeachment - proceedings to remove from public office any person who unlawfully usurps, holds or exercises public office
- recall - procedure to remove elected officials from office
- recess - an intermission taken by the assembly
- recording - to permanently register a document with the appropriate authority
- redistricting - to re-divide legislative areas based upon the results of the decennial census
- referendum - the right of the people to refer proposed legislation to a vote of the people through an election process
- release - to free or satisfy from something objectionable or undesirable, i.e., upon payment in full of mortgage or assessment lien
- remonstrance - the act of expressing strong or reasoned opposition
- repeal - the annulling of a previously existing law by the enactment of a subsequent statute which declares that the former law shall be revoked
- rescind - to revoke, repeal or annul a decision or decree

- resolution - a decision, opinion, policy or directive of a municipality expressed in a formally drafted document and voted upon
- resource recovery - the process of obtaining materials or energy, particularly from solid waste
- restoration - the replication or reconstruction of a building's original architectural features; usually used to describe the technique of preserving historic buildings
- restrictive covenant - a limitation on the use of land usually set forth in the deed. (A restrictive covenant usually runs with the land and is binding upon subsequent owners of the property)
- retention schedule - a general schedule published by the state archivist in which certain common public records are described or listed by title and a minimum retention period established for each; or a special schedule approved by the State Archivist for the public records of a specific agency
- revenue bonds - bonds sold for which the principal and interest are payable exclusively from the earnings of a specific revenue source and which do not pledge the property credit or general tax revenue of a city
- revenues - monies received or anticipated by a local government from either tax or non-tax sources
- revisions - written or added changes, corrections or improvements to such documents as a plan, specification or drawing
- rezone - to change the zoning classification of particular lots or parcels of land
- right-of-way - strip of land owned by a government agency over which the public has right of passage such as streets, parkways, medians, sidewalks, easements and driveways constructed thereon
- roll call - a listing of those members in attendance at a meeting of the governing body
- sanitary land fill - a site for solid waste disposal
- sanitary sewers - pipes that carry only domestic or commercial sewage and into which storm, surface and ground waters are not intentionally admitted
- sealed tenders - see bid
- secondary motions - motions which can be made while a main motion is pending and which relate to business already before the assembly; to questions of order or procedure; or to matters of comfort or privilege; there are three classes of secondary motion - subsidiary, privileged, or incidental
- seconding a motion - agreeing that a motion should come before a meeting
- set back - the minimum distance away from a property line where buildings may be constructed; a building line, usually a line parallel to the front property line
- sine die - without a time set for further consideration
- sludge - solid removed from sewage during waste water treatment and then disposed of by incineration, dumping or burial soil
- sole source - supplier - award for supply or service without competitive bidding when only one source is available
- solicitor - one who seeks trade; asks for contributions; a member of the legal profession
- solid waste - unwanted or discarded material, including garbage with insufficient liquid content to be free flowing

- solid waste management - a planned program providing for the collection, storage, and disposal of solid waste, including, where appropriate, recycling and recovery
- special assessment bond funds - a fund where the cost of improvements provided by the bond proceeds are assessed against property owners benefited by the improvements
- stating the question - motions that assist the assembly in treating or disposing of a main motion (and sometimes other motions)
- synergism - the cooperative action of separate substances so that the total effect is greater than the sum of the effects of the substances acting independently
- special exception - see variance
- specifications - the written instructions which accompany and supplement the drawings in a contract
- standing committee - a committee which usually functions throughout the year and meets on a regularly scheduled basis
- statute - a law enacted by the legislative branch of state/province or federal government
- storm sewer - a conduit that carries storm and surface waters, but excludes sewage and industrial waste, other than unpolluted water
- street - any vehicular way which: 1) is an existing state, county or municipal roadway; 2) is shown upon a plat approved pursuant to law; 3) is approved by other official action; or 4) is shown on a plat duly filed and recorded

collector: a street which collects traffic from local streets and connects with minor and major arterials

cul-de-sac: a street with a single common ingress and egress and with a turn-around at the end; not a through street

dead end: a street with a single common ingress and egress

expressway: a divided multi-lane major arterial street for through traffic with partial control of access and with grade separations at major intersections

freeway: a limited access highway with no grade crossings

loop: a local street which has its only ingress and egress at two points of the same collector street

major arterial: a street with access control, channelized intersection restricted parking, and which collects and distributes traffic

minor arterial: a street with signals at important intersections and stop signs on the side streets which collects and distributes traffic to and from collector streets

- strip development - commercial or retail development, usually one-store deep, that fronts on a major street

- subdivision - the division of a single tract or other parcel of land into two or more lots. (Specific definitions will vary in specific ordinances or regulations.)
- subpoena - requiring a party who was summoned to appear in court to bring some document, piece of evidence, or other thing to be used or inspected by the court
- subsidiary motions - motions that assist the assembly in treating or disposing of a main motion (and sometimes other motions)
- summons - a call by authority to appear at a place named; a warning or citation to appear in court
- sunshine law - legislation providing that all meetings of public bodies shall be open to the public (a/k/a open public meetings law)
- survey - the process by which a parcel of land is measured and its boundaries and contents ascertained
- sustain - to uphold
- swale - a depression in the ground which channels runoff
- table - to suspend consideration of a pending legislative bill or measure
- tax - an amount levied upon individuals or property to fund government goods and services
- taxable valuation - the value placed on an item of real property for property tax purposes. The levy rate times the taxable value equals the amount of tax levied on the property. The taxable value is equal to the actual assessed valuation times the assessment limitation.
- tax exempt property - property, which because of its ownership or use, is not subject to property taxation and meets state requirements for tax-exempt status
- tax increment financing - funding from net increases in real property tax revenues within a community redevelopment area established pursuant to state statute
- title - an instrument evidencing right of possession
- title examination - an investigation of the abstract of title, made by or for a person who intends to purchase real estate, to ascertain the history and present condition of the title to such land and its status with reference to liens and encumbrances
- topography - the configuration of a surface area showing relative elevations and other surface features
- tort - a private or civil wrong or injury, other than breach of contract, for which the court will provide a remedy in the form of an action for damages
- transcript - a written, printed, or typed copy of dictated or recorded material
- trust funds - an established guardianship of funds, such as a pension fund, for which the municipality is responsible
- two-thirds vote - two out of three of the votes cast; for two-thirds approval, the affirmative vote is at least twice as large as the negative
- ultra vires - outside the powers of the municipal corporation (government)
- underwriter - the investment house (or houses) that purchases a bond offering from the issuing government
- urban homesteading - a program for selling vacant, usually substandard urban housing, to people who will rehabilitate and occupy such housing

- urban renewal - a program for physical improvement of primarily urban areas through comprehensive planning and governmental assistance to effect rehabilitation and redevelopment
- unfinished business - questions that have come over from the previous meeting because that meeting adjourned without completing its order of business
- user fees - sources of revenue collected from users of various municipal services
- vacate - to annul; to set aside; to cancel or rescind
- variance - modification from the provisions of a zoning ordinance granted by a legislative body upon submission of an application and a hearing
- verbatim - in the exact words; word for word
- violation - injury; infringement; breach of right, duty or law
- vote by mail - (election by mail) - any election held only by mail
- voucher - a piece of supporting evidence documenting an expenditure
- vote - a formal expression of the will, opinion, or preference of the members of the assembly in regard to a matter submitted to it
- waive - to give up possession claim or right wastewater - see effluent
- writ - an order or mandatory process in writing issued under seal in the name of a court or judicial officer commanding the person to whom it is directed to perform or refrain from performing an act specified therein; a formal legal document ordering or prohibiting some action
- yield - give way to; a pending question yields to one of higher rank
- zero-lot-line development - placement of dwellings that group outdoor space for maximum utilization; development which is built at the lot-lines and requires no front, rear or side yard setbacks.
- zone - a specifically delineated area or district in a municipality within which there are regulations for the use, placement spacing, and size of land and buildings
- zoning district - see zone

Chapter 9.16 Reference Organizations

Sections:

- 9.16.010 Organizations for Municipal Clerks
- 9.16.020 Organizations for Records Managers
- 9.16.030 State Archives
- 9.16.040 Municipalities

9.16.010 ORGANIZATIONS FOR MUNICIPAL CLERKS

American Institute of Parliamentarians

P.O. Box 12452
Fort Wayne, IN 46863

Telephone: (301) 946-9220
Seminars, publications, home-study courses

International Institute of Municipal Clerks

1206 N. San Dimas Canyon Rd.
San Dimas, CA 91773
Telephone: (909) 592-IIIMC
FAX: (909) 592-1555

Federal Election Commission

National Clearinghouse on Election Administration
Washington, D.C. 20463
Telephone: 1-800-424-9530
FAX: (202) 219-3670

Washington Municipal Clerks Association

c/o Reggie Williams, MMC
City of Prosser
P O Box 271
Prosser, WA 99350
Telephone: (509)786-2332
FAX: (509) 786-3717

9.16.020 ORGANIZATIONS FOR RECORDS MANAGERS

Association of Records Managers & Administrators (ARMA)

4200 Somerset Dr., Suite 215
Prairie Village, KS 66208
Telephone: (913) 341-3808

Puget Sound Chapter of ARMA

P.O. Box 1842
Tacoma, WA 98402-1842

National Association of Government Archivists & Records Managers

48 Howard St.
Albany, NY 12207
Telephone: (518) 463-8644

Association of Local Area Records Managers (ALARM)

c/o Mark Burnfield
Jefferson County Public Works

P.O. Box 1220
Port Townsend, WA 98368
Telephone: 1-800-831-2678

9.16.030 ORGANIZATIONS FOR MUNICIPALITIES

Academy for State and Local Government

Washington D.C.
Telephone: (202) 434-4850

Association of Washington Cities

1076 S. Franklin St.
Olympia, WA 98501
Telephone: 1-800-562-8981

Government Finance Officers Associations

Chicago, IL
Telephone: (312) 977-9700

International City/County Managers Association

Washington, D.C.
Telephone: (202) 289-4262

International Association of Assessing Officers

Chicago, IL
Telephone: (312) 819-6100

International Personnel Management Association

Alexandria, VA
Telephone: (703) 549-7100

Municipal Research & Services Center

1200 5th Avenue, Suite 1300
Seattle, WA 98101 Telephone: (206) 625-1300

Municipal Treasurers Association

Washington, D.C.
Telephone: (202) 833-1017

National Civic League

Denver, CO
Telephone: (303) 571-4404

(Publications to improve citizen participation and mutual problem-solving.)

National Council for Urban Economic Development

Washington, D.C.

Telephone: (202) 986-0446

National League of Cities

Washington, D.C.

Telephone: (202) 626-3190

Public Technology Inc.

1301 Pennsylvania Ave. NW

Washington, D.C. 20004-1793

Telephone: (202) 626-2400

9.16.040 STATE ARCHIVES

Central Washington Regional Center

State Archives

Central Washington University

MS-7547

Ellensburg WA 98926

Telephone: (509) 963-2136

FAX (509) 963-1753

Eastern Washington Regional Center

State Archives

Eastern Washington University

MS-84, TAW Rm. 211

Cheney, WA 99004-2423

Telephone: (509) 359-6900

FAX (509) 359-2476

Puget Sound Regional Center

State Archives

P.O. Box 68286

Seattle, WA 98168-0286

Telephone: (206) 439-3785

FAX (206) 439-3708

Northwest Regional Center

Goltz-Murray Archives Building

Western Washington University
Bellingham, WA 98225-9123
Telephone: (360) 650-3125
FAX (360) 650-3323

Southwest Regional Center

1120 Washington St. SE
P.O. Box 40238
Olympia, WA 98504-0238
FAX (360) 664-8814

Chapter 9.18 Education of Municipal Clerks

Sections:

- 9.18.010 IIMC (International Institute of Municipal Clerks).
- 9.18.020 Certified Municipal Clerk (CMC) Basic Requirements.
- 9.18.030 Advanced Academy (AAE) Requirements.
- 9.18.040 Educational Opportunities.

9.18.010. IIMC. The International Institute of Municipal Clerks is the professional association of 9,700 city, county, village, town and borough clerks in every U.S. state and Canadian provinces, and in fourteen other countries. IIMC, through its Management Information Center, provides surveys, research, bulletins, case studies, and ordinance compilations on a variety of subjects affecting the operations of the municipal clerk's office.

The purpose of IIMC is to improve the administration of state, provincial, county and local government through officials and persons vested with the powers and duties commonly known as clerks, secretaries, or recorders.

The objectives of the IIMC are to encourage the use of common terminology, classifications and principles relating to the clerk's duties; to bring about the enlistment and training of qualified public officials and employees; to maintain central facilities for study and research devoted to improvement of methods and procedures for performance of the clerk's duties; and to develop, exchange and disseminate information, ideas and techniques relating to the responsibilities of the office.

9.18.020 CERTIFIED MUNICIPAL CLERK/BASIC REQUIREMENTS. The Certified Municipal Clerk Program was initiated by the membership of IIMC in 1969 to give recognition to those clerks who have achieved professional competency.

The CMC award is granted only after an applicant has met specific requirements in professional education, experience, and participation. It is available only to municipal clerks and their deputies who are members of the International Institute of Municipal Clerks. Approximately one in three active IIMC members currently holds the CMC designation.

Each applicant must:

1. be a Municipal Clerk or Deputy Clerk;
2. be a member of IIMC for two years;
3. affirm and practice the IIMC Code of Ethics;
4. submit an IIMC application for certification form with required documentation and fee;
5. furnish a letter of sponsorship from a Municipal Clerk member of IIMC.
6. attain 50 points in each of the two categories below for a total of 100 points.

Each Certified Municipal Clerk receives:

- Official recognition of this honor
- The distinctive CMC pin
- Certificate mounted on a wall plaque
- Letter of commendation by IIMC President to Mayor and/or other public officials
- Individualized news releases to local newspapers, radio and television stations
- Right to use the CMC designation on letterhead, business card, etc.

STANDARDS FOR CERTIFICATION---appropriate documentation must be filed with application.

In addition to meeting the basic requirements, an applicant must attain a total of 100 points - 50 points in each category.

EDUCATION POINTS

Satisfactory completion of an IIMC-recognized Municipal Clerks Institute	50 pts.
Bachelor degree or higher in Public Administration or related field	50 pts.
Bachelor degree in an unrelated field and 67 hours of Institute training	50 pts.
Associate of Arts degree in Public Administration or related field and 67 hours of Institute training	50 pts.

(Related fields include, but are not limited to: political science, government, business administration, accounting, economics, finance, or one of the social sciences.)

EXPERIENCE Maximum pts. per category

Full-time Municipal or Deputy Clerk with administrative responsibility	4 pts./yr.	40 pts.
Part-time Municipal or Deputy Clerk with administrative responsibility	2 pts./yr.	40 pts.
Full-time Municipal or Deputy Clerk with no administrative responsibility	2 pts/yr.	30 pts.
Part-time Municipal or Deputy Clerk with no administrative responsibility	1 pt./yr.	30 pts.
Other full-time administrative positions in local government prior to becoming a Municipal or Deputy Clerk	2 pts./yr.	30 pts.
Administrative position in federal, state or provincial government	1 pt./yr.	30 pts.
Administrative position in business	1 pt./yr.	30 pts.
Attendance at IIMC Annual Conferences	4 pts. each	20 pts.
Attendance at state, provincial or regional Municipal Clerks meetings or conferences	1 pt./6 hrs. or 1 day	10 pts.
Education courses and in-service training relating to your position as Municipal Clerk	1 pt./6 hrs. or 1 day	10 pts.
Satisfactory completion of IIMC-approved home study courses	5 pt./course.	15 pts.
Relevant college or university credited course credits	1 pt./credit hr.	25 pts.

You may obtain an application for the Certified Municipal Clerks Program by writing to:

INTERNATIONAL INSTITUTE OF MUNICIPAL CLERKS
1206 N. San Dimas Canyon Rd.
San Dimas, CA 91773
Phone: (909) 592-4462
Fax: (909) 592-1555

9.18.030 ADVANCED ACADEMY REQUIREMENTS. Today's Municipal Clerk must continue growing through advanced education and active participation in the profession. IIMC encourages clerks to continue their professional growth and development and honors such activity with the AAE designation, which may be used together with the CMC designation (CMC/AAE).

The following are prerequisites for Academy membership:

1. Active IIMC membership;
2. Attainment of CMC status;
3. Reaffirmation of IIMC's Code of Ethics;
4. A minimum of 25 points in two categories:
 - a. Advanced Education (minimum of 15 pts.); and
 - b. Professional and social contributions (minimum of 5 pts.);
5. A \$100 program fee.

ACADEMY and SUSTAINING POINT CATEGORIES

EDUCATION (Minimum Points: 15)

Satisfactory completion of an IIMC-approved Advanced Academy program	3 pts./6-hours (or 1-day)
Academic credits in a related field* earned at an accredited college or university after IIMC certification	2 pts./ credit unit
Certification from a counterpart organization related to your responsibilities as a Municipal Clerk	7 pts.
Completion of a professionally-related* course or seminar at a local resource not designed exclusively for an AAE program	1 pt./6-hours (or 1 day)
Other professionally-related education courses not described above	1 pt./6-hours (or 1-day)
Personal accomplishment of educational benefit to the profession	2 pts.
Teaching/training at an IIMC	1 pt./6 hours

recognized institute or Municipal Clerk related education training program	teaching (includes preparation)
--	---------------------------------

* Course from fields in Pubic Administration, Urban Affairs, Municipal Management, Political Science, Records Management, Municipal Finance, Governmental Accounting, Urban Planning and Personnel Administration. Other course may be acceptable. Education units or hours may not be credited to both CMC and AAE programs.

PROFESSIONAL and SOCIAL CONTRIBUTIONS

Member IIMC Board of Directors	2 pts. /yr.
Chairperson of an IIMC committee	2 pts./yr.
Officer or trustee of a Municipal Clerks association	2 pts./yr.
Officer or trustee of a subdivision of a Municipal Clerks association	1 pt./yr.
Registration and attendance at an IIMC or Municipal Clerk Association Annual Conference or IIMC regional meeting	1/ event
Presenter at an IIMC Annual Conference session	1/ session
IIMC committee member	1/yr.
Unique on-the-job performance and/or personal achievements that benefit the profession	2/yr.
Officer in related professional association	1/yr.

9.18.040 EDUCATIONAL OPPORTUNITIES:

- Management of Records & Information University of Washington Certification Program
- Supervisory Management for Municipal Clerks at Michigan State University Certification Program
- Advanced Academy Education
- Offered through IIMC at WMCA Annual Conferences
- Municipal Clerks Certification Offered through IIMC
- Professional Development Classes (PD I, II and III)

see #1 above.

CHAPTER 9.20 Bibliography

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City Clerks' Handbook, City Clerks' Association of California, 1982, Irvine, California.

"City Clerks Make It Work," Marie O'Connell, 1988, City of Bellevue, Wa.

Cities & Towns, Records Management Manual and General Records Retention Schedule. Compiled by Sid McAlpin and May Oletzke, Olympia, Washington, 1986. Office of the Secretary of State.

Code City Handbook, Municipal Research & Services Center, Kirkland, Wa., 1988.

"Disaster Preparedness", Office of the Secretary of State, Olympia, Wa., 1985.

Effective Supervisory Practices, Second Edition; ICMA, Washington, D.C; 1984.

Elected Officials' Handbooks, Third Edition; ICMA, Washington, D.C; 1988.

"Initiative and Referendum Powers of Cities in the State of Washington", Municipal Research & Services Center, Kirkland, Wa., February, 1994.

"Knowing the Territory -- Basic Legal Guidelines for Municipal Officials," Municipal Officials," Municipal Research & Services Center, Kirkland, Wa., 1987.

The Language of Local Government, IIMC, 1989. (Reprinted with permission.)

"Making Meetings Work," Marie O'Connell, Bellevue, Wa., 1989.

"Ordinances, Resolutions and Motions -- When to Use Which...", State Attorney General Office, 1987.

"Personnel News--Supreme Court Decides Sexual Harassment Case", Vol. I #4, Washington Local Government Personnel Institute, Olympia, Wa. December 1993.

"Public Relations Project," IIMC News Digest, June, 1988.

Redmond City Clerk's Handbook, Doris Schaible, CMC, Redmond, Wa., 1994.

Secrets of Leadership, Rick Lynch and Sue Vineyard, Heritage Arts, 1991.

Security Microfilm Transfer & Storage for State and Local Government Agencies. Office of the Secretary of State, Olympia, Wa.

"Sexual Harassment, Management Information Manual," The Orion Partnership, Bellevue, WA, 1986.

"Shortcuts to Minutes -- You Can't Learn Too Many," Mary Nichols (presentation to 44th Annual IIMC Conference), 1990, Rockwell, Texas.

Supervisory Management for Municipal Clerks, Dolly Malik and Sharon Thach, Michigan State University, 1987.

"Title II, Americans with Disabilities--A Planning Guide for Communities," National Organization on DisABILITY, Washington D.C. Office of the Secretary of State.

Washington State Standards for the Production and Use of Microfilm, Office of the Secretary of State.

Welcome to City Hall, Association of Washington Cities, 1990.

April

May

June

July

August

September

October

November

President Mssg

Newsletter Committee and EC articles:

Featured Clerk

New MMC / CMC

IIMC Highlights

Regional Community Events

and anything below not covered by the Chair

Committees:

Audit

Awards COTY & Pres Choice

ByLaws as needed

Conference Plan

Education Conf Recap NCI NCI Fall Academy Fall Academy Academy recap
NCI Recap

Fundraising Conf Recap Academy store sales Academy recap

Historical

Legislative as needed

Membership Election Results Elections Call
Quarterly New Member reports

Scholarship IIMC Recips NCI Recips M Price Call Fall Fall Recips M Price Call Spring

December

January

February

March

President Mssg

Newsletter Con

Featured Clerk
New MMC / CMC
IIMC Highlights
Regional Community
and anything below

Committees:

Audit

Awards

COTY Call

ByLaws

Conference Plan

Education

Fundraising

Conf Raffle

Conf Auction

Conf Store

Historical

Conf Sign Up

Conf Table

Legislative

Membership

Elections Call

Ballot Info
Dues Due

Scholarship

M Price Call IIMC & NCI

Spring Recips

Number of pages does not matter

Call for articles, include suggested content for the year in April

Email monthly suggested list to Chairs and EC From current month editor

Send final to webmaster by the 1st of month for e-blast by the 5th.

If Cmte members cannot meet dates, the 3rd backup is the EC Liaison

	<u>Cmte</u> <u>Assignment</u>	<u>Backup</u> <u>Assignment</u>	<u>Call for</u> <u>Articles</u>	<u>Article</u> <u>Deadline</u>	<u>Send to EC</u> <u>for review</u>	<u>EC Review</u> <u>Due</u>
April			3/15/2013	3/22/2013	3/26/2013	3/28/2013
May			4/15/2013			
June			5/15/2013			
July			6/15/2013			
August			7/15/2013			
September			8/15/2013			
October			9/15/2013			
November			10/15/2013			
December			11/15/2013			
January			12/15/2013			
February			1/15/2014			
March			2/15/2014			



- First Quarter Report (June Mtg)
- Second Quarter Report (Oct Mtg)
- Third Quarter Report (Jan Mtg)
- Year-End Report (Mar Mtg)

TO: WMCA President and Executive Committee

FROM: Bobbie Usselman

COMMITTEE: Webmaster

DATE: February 25, 2013

SUMMARY OF ACTIVITIES: The WMCA website has annual updates as the new fiscal year begins. There are updates from time-to-time for Job Opportunitites, membership maintenance, and several updates and e-blasts prior to conference. Monthly e-blasts occur with the newsletter.

At the last EC meeting there was discussion concerning the amount of e-blasts that occur and whether they are being read. The website calculates how many "hits" occur on emails. Attached is a chart showing the statistics for emails sent since the beginning of December.

It appears over half of our membership does open the email with the monthly newsletters; I hope that means they read the newsletter, too. Unfortunately, we do not have a way to track access to individual pages through our website.

Our website has storage capacity of 400 MB. We are currently at 326 MB, or 81%. I will take some time in the near future to delete unnecessary files to see if we can retrieve some capacity.

ACTION REQUESTED: YES NO

RECOMMENDATION: Continue to update website as necessary. Additionally, continue to monitor e-blasts.

ALTERNATIVES:

FISCAL IMPACT:

Revenues:	Budgeted Amount	Revenues Generated
-----------	-----------------	--------------------

_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

Expenditures:

Budgeted Amount

Amount encumbered & expended

_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

324 members

Opened

2/13/2013	WMCA - February Newsletter	180
2/11/2013	Reminder - WMCA 2013-2014 Election	85
2/8/2013	Add't 2013 WMC Conf. Scholarship	102
2/4/2013	Reminder - WMCA 2013-2014 Election	93
1/24/2013	WMCA 2013-2014 Election	118
1/22/2013	1/23/2012 PH - HB1037	126
1j/22/2013	WMCA - January Newsletter	200
1/15/2013	Northwest Clerks Institute - Registration	132
1/7/2013	IIMC Region IX Newsletters	136
12/27/2012	WMCA - Last Call for Candidate Packets	51
12/27/2012	WMCA December Newsletter	186
12/20/2012	Region IX Director - Call for Candidates	63
12/18/2012	WMCA - Call to 2013 Conference	114
12/17/2012	WMCA - Call for Candidates Deadline	63
12/10/2012	WMCA - Call for Candidates	72
12/10/2012	Clerk of the Year Nominations - Deadline	58
12/10/2012	City Clerk "Elevator" Cards	213
12/5/2012	WMCA Grand Raffle Tickets	54

**WASHINGTON MUNICIPAL CLERKS ASSOCIATION
2013 – 2014 EXECUTIVE COMMITTEE**

**Scott Passey, MMC
President (2014)**

City of Shoreline
17500 Midvale Ave N
Shoreline, WA 98133
206-801-2231
spassey@shorelinewa.gov
425-263-2961 cell

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President Elect (2014)**

City of Algona
402 Wade Street
Algona, WA 98001
253-833-2897
dianaq@algonawa.gov
360-319-8207 cell

**Debbie Burke, MMC
Vice President (2014)**

City of Normandy Park
801 SW 174th Street
Normandy Park, WA 98166
206-248-8248
debbieb@ci.normandy-park.wa.us
253-508-6043 cell

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Secretary (2014)**

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volsen@ci.mlt.wa.us
206-730-3410 cell

**Gina Anderson, CMC
Treasurer (2015)**

City of Woodland
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360-225-8281
andersong@ci.woodland.wa.us
360-607-8194 cell

**Paula Swisher, CMC
Board Member (2014)**

City of Brier
2901 228th Street SW
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425-760-4823 cell
425-348-4439 home

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**WASHINGTON MUNICIPAL CLERKS ASSOCIATION
2013-2014 COMMITTEE CHAIRS & EXECUTIVE COMMITTEE LIAISONS**

AUDIT

Chair: Erin Larsen, DuPont
elarsen@ci.dupont.wa.us
Liaison: Randy Hinchliff, Waitsburg
rjhinch@govtvc.net

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Liaison: Christy O'Flaherty
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Chair: Paula Swisher, Brier
pswisher@ci.brier.wa.us
Hotel Sub Committee Chair
Alice Attwood, Tonasket
tonasket@nvinet.net
Liaison: Scott Passey, Shoreline
spassey@shorelinewa.gov

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Chair: Carol Etgen, Fife
cetgen@cityoffife.org
Liaison: Virginia Olsen, Mountlake Terrace
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Liaison: Bobbie Usselman, Sequim
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dee.roberts@southbend-wa.gov
Liaison: Gina Anderson, Woodland
andersong@ci.woodland.wa.us

WEBMASTER

Bobbie Usselman, Sequim
busselman@ci.sequim.wa.us



Executive Committee 2013-2014 Meeting Schedule

March 22, 2013	12:30 p.m. -5:00 p.m.	Murano Hotel Tacoma
June 14, 2013 (with all due respect to PD classes schedule and AWC conference)	10:00 a.m. – 2:00 p.m.	Shoreline City Hall Shoreline
October 18, 2013	10:00 a.m. – 2:00 p.m.	Red Lion Hotel Pasco
January 17, 2014	10:00 a.m. – 2:00 p.m.	Shoreline City Hall Shoreline
March 21, 2014	12:30 p.m. – 5:00 p.m.	Red Lion Hotel Pasco