

ORDINANCE NO. \_\_\_\_\_

**(EMERGENCY ORDINANCE)**

**ESTABLISHING A PROCESS FOR INFORMATION TO BE DISCLOSED TO THE  
DIVISION OF EMERGENCY MANAGEMENT, THE COUNTY EXECUTIVE, THE COUNTY  
HEALTH BOARD AND THE PUBLIC DURING A PUBLIC HEALTH EMERGENCY**

**WHEREAS**, in times when a health emergency has been declared, the demands placed on the County Health Officer and Health Department can be severe; and

**WHEREAS**, matters related to a public health emergency may involve matters that RCW 42.30.110 states may be conducted in executive session such as:

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

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

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

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

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

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

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**WHEREAS**, in a public health emergency, the County emergency management division, County Executive, County Council and the public all need to receive adequate information in a timely fashion so each may make an effective contribution to responding to the emergency; and

**WHEREAS**, in time of emergency, uncoordinated and inconsistently applied rules related to requests for information can place an unreasonable burden on the County Health Officer and Health Department staff; and

**WHEREAS**, a common issue that arises in such situations, often at the end of a long shift when everyone is exhausted, is the question of what information from the day should be disclosed to whom and how; and

**WHEREAS**, in such times the County Code should establish a process to reduce the burden on the County Health Officer and Health Department staff from having to make decisions on what information needs to be disclosed, to whom, and the format to be used, thus returning operational hours better applied to the delivery of services to the community; and

**WHEREAS**, the ability for senior staff to point subordinates to a clear policy on this topic frees up senior staff time to work on more pressing matters (or simply use the time to rest and recuperate); and

**WHEREAS**, an emergency ordinance necessary for the immediate preservation of the public peace, health, or safety or support of the County government and its existing institutions may be passed by a two-thirds vote of the County Council; and,

**WHEREAS**, the Council enters the following findings in support of this emergency ordinance:

1. On March 10, 2020, following Governor Inslee’s statewide emergency proclamation, County Executive Satpal Sidhu proclaimed that an emergency existed in Whatcom County due to the expanding outbreak of COVID-19, and that the public was at risk of a massive outbreak if emergency measures were not taken to reduce that risk;
2. The proposed amendments to WCC 24.01.040 will improve the efficiency of County operations in response to this ongoing emergency and will provide the public with vital updates on the state of the emergency;
3. The proposed amendments to WCC 24.01.040 herein must be adopted immediately in order to preserve the health and safety of the citizens of Whatcom County,

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**NOW, THEREFORE, BE IT RESOLVED,** that:

- 1. The Whatcom County Code shall be amended to include a new section as detailed in the attached Exhibit A.
- 2. This ordinance will expire on the sixty-first day following the date on which it becomes law.

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_ 2020.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

\_\_\_\_\_  
Dana Brown-Davis, Clerk of the Council

\_\_\_\_\_  
Barry Buchanan, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE  
WHATCOM COUNTY, WASHINGTON

\_\_\_\_\_  
Civil Deputy Prosecutor

\_\_\_\_\_  
Satpal Singh Sidhu, County Executive

( ) Approved ( ) Denied

Date Signed: \_\_\_\_\_

**EXHIBIT A**

**24.01.040 Powers and duties.**

A. Administrative Director. The duties of the administrative director shall be as outlined in RCW [70.05.045](#), as well as general management, oversight and administration of the health department. It is the responsibility of the administrative director to hire departmental staff, except for the health officer, in accordance with the personnel policies and procedures of the county and any other applicable laws and regulations.

B. Health Officer. The powers and duties of the health officer shall be as outlined in RCW [70.05.070](#). If no administrative director has been appointed, as provided in WCC [24.01.030\(A\)](#), the health officer, under the direction of the county executive, shall have the powers and duties as outlined in RCW [70.05.070](#) and the powers and the duties of the administrative director as outlined in WCC [24.01.040\(A\)](#). If an administrative director is appointed in accordance with WCC [24.01.030\(A\)](#), the health officer shall have the powers and duties as outlined in RCW [70.05.070](#) under the direction of the administrative director.

C. Disclosure of Information. In the event of a public health emergency, the Health Officer, Administrative Director or their respective designees shall promptly and continually:

(i) disclose all relevant information which, in the opinion of the emergency management division, County Executive, or County Health Board, is required to perform their respective duties effectively.

(ii) provide a brief daily update to the public in a format and level of detail as approved by the super majority vote of the County Health Board.

D. During the public health emergency, requests for documents made to the Health Officer or Administrative Director by the emergency management division, County Executive, or County Health Board should be limited to existing documents and should avoid the creation of new documents, unless a person with appropriate skills, acting reasonably has insufficient information to evaluate a expenditure request.

E. Nothing herein shall be construed as requiring the Health Officer or Administrative Director to release confidential health care information protected by state or federal privacy laws. Such information shall be redacted prior to the release of documents containing such information.

F. If the requested information involves a matter that can be heard in executive session under RCW 42.30.110 , the Health Officer, Administrative Director, County Executive, County Health Board Chair or their respective legal counsel may request that the matter be heard in executive session.