

WITH BROWNE'S PROPOSED EDITS

ORDINANCE NO. AB-2020-173

**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;

1 **WHEREAS**, in a public health emergency, the County emergency management
2 division, County Executive, County Council and the public all need to receive
3 adequate information in a timely fashion so each may make an effective contribution
4 to responding to the emergency; and
5

6 **WHEREAS**, in time of emergency, uncoordinated and inconsistently applied rules
7 related to requests for information can place an unreasonable burden on the County
8 Health Officer and Health Department staff; and
9

10 **WHEREAS**, a common issue that arises in such situations, often at the end of a long
11 shift when everyone is exhausted, is the question of what information from the day
12 should be disclosed to whom and how; and
13

14 **WHEREAS**, in such times the County Code should establish a process to reduce the
15 burden on the County Health Officer and Health Department staff from having to
16 make decisions on what information needs to be disclosed, to whom, and the format
17 to be used, thus returning operational hours better applied to the delivery of services
18 to the community; and
19

20 **WHEREAS**, the ability for senior staff to point subordinates to a clear policy on this
21 topic frees up senior staff time to work on more pressing matters (or simply use the
22 time to rest and recuperate); and
23

24
25 **NOW, THEREFORE, BE IT RESOLVED**, that the County Code shall be amended to include
26 a new section as detailed in the attached Exhibit A.
27

28
29 **ADOPTED** this ____ day of _____, 2020.
30

31
32 ATTEST:

33
34
35 _____
36 Dana Brown-Davis, Clerk of the Council
37

38
39 WHATCOM COUNTY COUNCIL
40 WHATCOM COUNTY, WASHINGTON

41 _____
42 Barry Buchanan, Council Chair

43 APPROVED AS TO FORM:

44 _____
45 Civil Deputy Prosecutor

46 WHATCOM COUNTY EXECUTIVE
47 WHATCOM COUNTY, WASHINGTON

48 _____
49 Satpal Singh Sidhu, County Executive

 () Approved () Denied

 Date Signed: _____

1 **EXHIBIT A**

2
3 **24.01.040 Powers and duties.**

4
5 A. Administrative Director. The duties of the administrative director shall be as outlined in RCW
6 [70.05.045](#), as well as general management, oversight and administration of the health department.
7 It is the responsibility of the administrative director to hire departmental staff, except for the health officer,
8 in accordance with the personnel policies and procedures of the county and any other applicable laws
9 and regulations.

10
11 B. Health Officer. The powers and duties of the health officer shall be as outlined in RCW [70.05.070](#).
12 If no administrative director has been appointed, as provided in WCC [24.01.030](#)(A), the health officer,
13 under the direction of the county executive, shall have the powers and duties as outlined in RCW
14 [70.05.070](#) and the powers and the duties of the administrative director as outlined in WCC [24.01.040](#)(A).
15 If an administrative director is appointed in accordance with WCC [24.01.030](#)(A), the health officer shall
16 have the powers and duties as outlined in RCW [70.05.070](#) under the direction of the administrative
17 director.

18
19 C. Disclosure of Information. In the event of a public health emergency, the Health **Department Officer,**
20 **Administrative Director or their respective designees** shall promptly and continually:

21
22 (i) disclose all relevant information which, in the opinion of the emergency management division,
23 County Executive, or County Health Board, is required to perform their respective duties
24 effectively.

25
26 (ii) provide a brief daily update to the public in a format and level of detail as approved by the
27 super majority vote of the County Health Board.

28
29 D. During the public health emergency, requests for documents made to the Health **Department Officer or**
30 **Administrative Director** by the emergency management division, County Executive, or County Health
31 Board should be limited to existing documents and should avoid the creation of new documents, unless a
32 person with appropriate skills, acting reasonably has insufficient information to evaluate a expenditure
33 request.

34
35 E. Nothing herein shall be construed as requiring the Health **Department Officer or Administrative Director**
36 to release confidential health care information protected by state or federal privacy laws. Such information
37 shall be redacted prior to the release of documents containing such information.

38
39 F. If the requested information involves a matter that can be heard in executive session under RCW
40 42.30.110 , the Health Officer, Administrative Director, County Executive, County Health Board Chair or
41 their respective legal counsel may request that the matter be heard in executive session.
42