

Title 242 WAC
COMMERCE,
DEPARTMENT OF
(GROWTH MANAGEMENT
HEARINGS BOARDS)

(Formerly: CTED (Growth Management Hearings Boards))

Chapters

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Chapter 242-02 WAC
PRACTICE AND PROCEDURE

WAC

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WAC 242-02-040 Definitions. As used in this title, the following terms shall have the following meaning:

(1) "Act" means the Growth Management Act, chapter 36.70A RCW, and subsequent amendments.

(2) "Board" means the Eastern Washington, Western Washington or Central Puget Sound growth management hearings board.

(3) "Final decision" means:

(a) Any final order as provided in RCW 36.70A.300; or

(b) Any other written finding, determination or order of the board which finally determines a legal right, duty, or other legal interest of the parties in the case and which clearly states such written finding, determination or order that it is a final decision subject to appeal to superior court.

(4) "Hearing examiner" means an authorized agent of a board who has a demonstrated knowledge of land use planning and law, appointed to assist the board in the performance of its hearing function as delegated by the board as provided by the act.

(5) "Joint boards" means the three independent boards meeting or acting jointly.

(6) "Office of the growth management hearings boards" means the administrative office of the three growth management hearings boards established in RCW 36.70A.250.

(7) "Participant" means any person with standing to challenge a legislative action as set forth in RCW 36.70A.330(2).

(8) "Party" means any person named in the caption of a case before a board.

(9) "Person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit, or public or private organization or entity of any character.

(10) "Petitioner" means a person who appeals any matter or who brings a petition for rule making to the board. A petitioner is a party to a case before the board.

(11) "Presiding officer" means any member of a board, or a hearing examiner, who is assigned to conduct a conference or hearing as directed by a board. The presiding officer shall be designated pursuant to WAC 242-02-521 and have authority as provided by WAC 242-02-522.

(12) "Publication" means:

(a) For a city, the date the city publishes the ordinance or summary of the ordinance adopting a comprehensive plan, development regulations or subsequent amendment, as is required to be published, or the date the city publishes notice that the shoreline master program or amendment has been approved or disapproved by the department of ecology;

(b) For a county, the date the county publishes the notice that it has adopted a comprehensive plan, development regulations or other enactments, or subsequent amendments pursuant to RCW 36.70A.290(2), or the date the county publishes notice that the shoreline master program or amendment has been approved or disapproved by the department of ecology.

(13) "Respondent" means a person who is named as a responding party in any petition for review before a board.

[Statutory Authority: RCW 36.70A.270(7), 09-21-039, § 242-02-040, filed 10/13/09, effective 11/13/09; 98-01-144, § 242-02-040, filed 12/19/97, effective 1/20/98; 97-04-008, § 242-02-040, filed 1/24/97, effective 3/1/97. Statutory Authority: RCW 36.70A.270(6), 94-23-112, § 242-02-040, filed 11/22/94, effective 12/23/94; 94-07-033, § 242-02-040, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-040, filed 10/15/92, effective 10/15/92.]

WAC 242-02-052 Petition for rule making. (1) Right to petition for rule making. Any person may petition the joint boards for the adoption, amendment, or repeal of any rule. Said petition shall be filed with the joint boards in care of the office of growth management hearings boards.

(2) Form of petition. The form of the petition for adoption, amendment, or repeal of any rule shall generally adhere to the following:

(a) A caption in the following form:

BEFORE THE JOINT GROWTH MANAGEMENT
 HEARINGS BOARDS
 STATE OF WASHINGTON

No.

In the matter of
 the Petition of
 (Name of Petitioner)
 for Rule Making

PETITION FOR RULE MAKING

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether the petitioner

seeks the adoption of a new rule or rules, or amendment or repeal of an existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by board rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interests of the petitioner and the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(c) The petition shall be dated and signed by the party named in the first paragraph or by the petitioner's attorney or other authorized representative. The original and nine copies shall be filed with the appropriate board at its office.

[Statutory Authority: RCW 36.70A.270(7). 09-23-009, § 242-02-052, filed 11/5/09, effective 12/6/09; 03-15-047, § 242-02-052, filed 7/11/03, effective 8/11/03; 00-09-094, § 242-02-052, filed 4/19/00, effective 5/20/00; 98-01-144, § 242-02-052, filed 12/19/97, effective 1/20/98. Statutory Authority: RCW 36.70A.270(6). 94-23-112, § 242-02-052, filed 11/22/94, effective 12/23/94; 94-07-033, § 242-02-052, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-052, filed 10/15/92, effective 10/15/92.]

WAC 242-02-070 Quorum. (1) Joint boards. For the purpose of adopting, amending, or repealing these rules or transacting other administrative business, at least two members of each board shall constitute a quorum of the joint boards. A quorum being present, any action may be taken upon the vote of the majority of the joint board members.

(2) Individual board. For purposes of making orders or decisions or transacting other official administrative business for an individual board, two members of a board shall constitute a quorum and may act even though one position on the board is vacant. One member or designated hearing examiner may hold hearings and take testimony. The findings of such member or hearing examiner shall not become final until approved by a majority of the board. A board member who does not attend a hearing shall review a transcript or recording of the hearing before signing the decision.

[Statutory Authority: RCW 36.70A.270(7). 09-21-041, § 242-02-070, filed 10/13/09, effective 11/13/09; 03-15-047, § 242-02-070, filed 7/11/03, effective 8/11/03; 97-04-008, § 242-02-070, filed 1/24/97, effective 3/1/97. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-02-070, filed 10/15/92, effective 10/15/92.]

WAC 242-02-072 Board office. (1) The administration of the three boards is consolidated in one office - the office of the growth management hearings boards:

Office of the Growth Management Hearings Boards
319 - 7th Avenue S.E., Suite 103
Olympia, WA 98501
P.O. Box 40953
Olympia, WA 98504-0953
360-586-0260
360-664-8975 Fax
e-mail: eastern@ew.gmhb.wa.gov
e-mail: western@wwgmhb.wa.gov
e-mail: central@cps.gmhb.wa.gov
web site: www.gmhb.wa.gov

(2) The filing of all petitions, briefs, exhibits, and other documents related to any proceeding before an individual board shall be made to the office of the growth management hearings boards, with specific indication of the appropriate board's name - Eastern, Western, or Central Puget Sound.

[Statutory Authority: RCW 36.70A.270(7). 09-21-039, § 242-02-072, filed 10/13/09, effective 11/13/09; 08-10-029, § 242-02-072, filed 4/28/08, effective 5/29/08; 03-15-047, § 242-02-072, filed 7/11/03, effective 8/11/03; 98-01-144, § 242-02-072, filed 12/19/97, effective 1/20/98. Statutory Authority: RCW 36.70A.270(6). 94-23-112, § 242-02-072, filed 11/22/94, effective 12/23/94; 94-07-033, § 242-02-072, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-072, filed 10/15/92, effective 10/15/92.]

WAC 242-02-074 Regular meetings. (1) Regular meetings of each board will be held at the office of the growth management hearings boards, or a designated location at the following times:

(a) Eastern Washington board - on the first Wednesday of each month at 10:00 a.m. or following any scheduled hearing on that date.

(b) Western Washington board - on the second Wednesday of each month at 11:00 a.m. or following any scheduled hearing on that date.

(c) Central Puget Sound board - on the first Monday of each month at 10:00 a.m. or following any scheduled hearing on that date.

(2) The joint boards shall meet annually at a time and location to be announced.

(3) An individual board shall make available the location of such a meeting if it is not to be held at the office of the growth management hearings boards.

[Statutory Authority: RCW 36.70A.270(7). 09-21-041, § 242-02-074, filed 10/13/09, effective 11/13/09; 08-10-029, § 242-02-074, filed 4/28/08, effective 5/29/08; 06-12-019, § 242-02-074, filed 5/26/06, effective 6/26/06; 97-04-008, § 242-02-074, filed 1/24/97, effective 3/1/97. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-02-074, filed 10/15/92, effective 10/15/92.]

WAC 242-02-075 Special meeting. (1) A special meeting of the joint boards may be called at the request of any three of the nine board members. To call a special meeting, a written notice of the meeting shall be posted on the boards' web site and personally e-mailed to:

(a) Each member of the boards; and

(b) Each general circulation newspaper, television or radio station which has on file with the boards a written request to be notified of special meetings.

(2) The written notice shall state the date and time of the meeting, and shall specify the business to be transacted by the boards. The boards will not take final action on any matter that is not specified in the written notice.

(3) Notices of special meetings shall be sent by e-mail:

(a) One day (twenty-four hours) before the scheduled meeting; except

(b) When a special meeting is called to consider rule changes pursuant to chapter 34.05 RCW, the notice shall be sent at least twenty days prior to the meeting; and except

(c) In the event of an emergency requiring board action, the notice and timing requirements may be waived as provided in RCW 42.30.080.

(4) The special meeting shall be chaired by one of the board members who called the meeting.

(5) A special meeting may be held by telephone conference call.

(6) Two members of each board will constitute a quorum for a special meeting.

(7) Members of the public may attend a special meeting by appearing at any of the three board offices, or the location of the special meeting, at the date and time set for the meeting.

[Statutory Authority: RCW 36.70A.270(7), 09-21-041, § 242-02-075, filed 10/13/09, effective 11/13/09; 08-21-015, § 242-02-075, filed 10/3/08, effective 11/3/08.]

WAC 242-02-080 Form and size of documents. Documents, other than exhibits, shall be provided in the manner indicated in a board's prehearing order.

[Statutory Authority: RCW 36.70A.270(7), 09-23-009, § 242-02-080, filed 11/5/09, effective 12/6/09. Statutory Authority: RCW 36.70A.270(6), 92-07-033, § 242-02-080, filed 10/15/92, effective 10/15/92.]

WAC 242-02-140 Signing of pleadings, motions, and legal memoranda. Every pleading, motion and legal memorandum of a party shall be dated and signed by the party, or the party's attorney or other authorized representative and include an address, telephone and fax numbers, and electronic mail address.

[Statutory Authority: RCW 36.70A.270(7), 09-23-009, § 242-02-140, filed 11/5/09, effective 12/6/09. Statutory Authority: RCW 36.70A.270(6), 94-07-033, § 242-02-140, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-140, filed 10/15/92, effective 10/15/92.]

WAC 242-02-210 Petition for review—Forms—Contents. A petition for review shall substantially contain:

(1) A caption in the following form:

BEFORE THE . . . GROWTH MANAGEMENT
HEARINGS BOARD
STATE OF WASHINGTON

Petitioner,	Case No.
v.	
Respondent.	PETITION FOR REVIEW

(2) Numbered paragraphs stating:

(a) Petitioner's name, mailing address, telephone number, and electronic mail address, and those of the attorney or other authorized representative, if any;

(b) Date of the challenged order, determination, publication, or other action or, in the case of an alleged failure to act, the date by which the action was required to be taken;

(c) A detailed statement of the issues presented for resolution by the board that specifies the provision of the act or other statute allegedly being violated and, if applicable, the provision of the document that is being appealed;

(d) A statement specifying the type and the basis of the petitioner's standing before the board pursuant to RCW 36.70A.280(2);

(e) The estimated length of the hearing;

(f) The relief sought, including the specific nature and extent;

(g) A statement that the petitioner has read the petition for review and believes the contents to be true, followed by the petitioner's signature or signature of the attorney(s) or other authorized representative(s), if any.

(3) One copy of the applicable provisions of the document being appealed, if any, shall be attached to the petition for review. Petitioner shall provide the board with a copy of the entire document being appealed within thirty days of filing a petition for review, unless otherwise directed by the board.

[Statutory Authority: RCW 36.70A.270(7), 09-23-009, § 242-02-210, filed 11/5/09, effective 12/6/09; 06-12-019, § 242-02-210, filed 5/26/06, effective 6/26/06; 04-21-046, § 242-02-210, filed 10/15/04, effective 11/15/04; 97-04-008, § 242-02-210, filed 1/24/97, effective 3/1/97. Statutory Authority: RCW 36.70A.270(6), 94-23-112, § 242-02-210, filed 11/22/94, effective 12/23/94; 94-07-033, § 242-02-210, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-210, filed 10/15/92, effective 10/15/92.]

WAC 242-02-230 Petition for review—Service and filing. (1) At least one copy of the petition for review shall be filed with the board by electronic mail, as provided in WAC 242-02-240, unless a petitioner does not have the technological capacity to do so. The original and four copies of the petition for review shall be filed with a board personally, or by first class, certified, or registered mail. Filings may also be made with a board by telefacsimile transmission as provided in WAC 242-02-240. A copy of the petition for review shall be personally served upon all other named parties or deposited in the mail and postmarked on or before the date filed with the board. When a county is a party, the county auditor shall be served in noncharter counties and the agent designated by the legislative authority in charter counties. The mayor, city manager, or city clerk shall be served when a city is a party. When the state of Washington is a party, the office of the attorney general shall be served at its main office in Olympia unless service upon the state is otherwise provided by law. Proof of service may be filed with the board pursuant to WAC 242-02-340.

(2) A board may dismiss a case for failure to substantially comply with subsection (1) of this section.

[Statutory Authority: RCW 36.70A.270(7), 09-23-009, § 242-02-230, filed 11/5/09, effective 12/6/09; 08-10-029, § 242-02-230, filed 4/28/08, effective 5/29/08; 06-12-019, § 242-02-230, filed 5/26/06, effective 6/26/06; 04-21-046, § 242-02-230, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 36.70A.270(6), 92-21-034, § 242-02-230, filed 10/15/92, effective 10/15/92.]

WAC 242-02-240 Date of filing—Facsimile and electronic mail. (1) The date of filing shall be the date of actual receipt by a board at the office of the growth management hearings boards. The date stamp placed on the petition shall be presumptive evidence of the date of receipt.

(2) Filing of any documents with a board by electronic mail or telefacsimile transmission is at the risk of the sender and shall not be deemed complete unless the following procedures are strictly observed:

(a) An electronic mail or telefacsimile document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped received on the following business day. The date and time indicated by the board's telefacsimile machine or receiving computer shall be presumptive evidence of the date and time of receipt of transmission.

(b) The original document and four copies shall be mailed and postmarked or otherwise transmitted to the board

on or before the date of sending the telefacsimile transmission or electronic mail.

(c) Documents over fifteen pages in length may not be filed by telefacsimile without prior approval of the presiding officer.

(3) A telefacsimile or electronic mail copy shall constitute an original solely for the purpose of establishing the date a document was filed.

[Statutory Authority: RCW 36.70A.270(7). 09-23-009, § 242-02-240, filed 11/5/09, effective 12/6/09; 08-10-029, § 242-02-240, filed 4/28/08, effective 5/29/08; 04-21-046, § 242-02-240, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 36.70A.270(6). 94-07-033, § 242-02-240, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-240, filed 10/15/92, effective 10/15/92.]

WAC 242-02-250 Notice of appearance and answer.

(1) The respondent shall file a notice of appearance with the board and serve a copy on the petitioner and all other parties promptly after having been served with a petition for review. The notice of appearance shall be dated, signed and contain the respondent's address, telephone and fax numbers, and electronic mail address.

(2) The respondent, at its option, may file an answer to the petition for review. The respondent shall file the original and four copies with the board and serve a copy on the petitioner. Answers shall be filed no later than twenty days from the date of service of the petition for review. Answers shall be verified in the same manner as the petition for review.

[Statutory Authority: RCW 36.70A.270(7). 09-23-009, § 242-02-250, filed 11/5/09, effective 12/6/09; 08-10-029, § 242-02-250, filed 4/28/08, effective 5/29/08; 04-21-046, § 242-02-250, filed 10/15/04, effective 11/15/04; 97-04-008, § 242-02-250, filed 1/24/97, effective 3/1/97. Statutory Authority: RCW 36.70A.270(6). 94-07-033, § 242-02-250, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-250, filed 10/15/92, effective 10/15/92.]

WAC 242-02-292 Direct review by superior court—Agreement of the parties. (1) A direct review agreement of the parties shall contain:

(a) A caption in the following form:

BEFORE THE . . . GROWTH MANAGEMENT
HEARINGS BOARD
STATE OF WASHINGTON

Petitioner,	Case No.
v.	
Respondent	Agreement for Direct Review by . . . County Superior Court

(b) Numbered paragraphs stating:

(i) Petitioner's name, mailing address, telephone number, and electronic mail address, and those of the attorney or other designated representative, if any;

(ii) Respondent's name, mailing address, telephone number, and electronic mail address, and those of the attorney or other designated representative, if any;

(iii) Intervenor's name, mailing address, telephone number, and electronic mail address, and those of the attorney or other designated representative, if any;

(iv) A statement indicating agreement to seek direct review by superior court of the petition for review filed with the board, citing case name and number as assigned by the board. The statement shall include agreement to proper venue, and may include other terms;

(v) Date the petition for review was filed, or if multiple petitions were filed and consolidated, the date the board served notice of consolidation;

(vi) A statement that all parties have read the agreement for direct review by superior court, and agree to its terms, followed by the signatures of all the parties or the signatures of the attorneys or other designated representatives, if any.

(2) One copy of the filed petition for review, with the case name, number and date stamp shall be filed with the agreement for direct review by superior court.

[Statutory Authority: RCW 36.70A.270(7). 09-23-009, § 242-02-292, filed 11/5/09, effective 12/6/09; 98-01-144, § 242-02-292, filed 12/19/97, effective 1/20/98.]

WAC 242-02-320 Method of service. Service of papers, specified in WAC 242-02-310(1), shall be made by electronic mail unless the party does not have the technological capacity to do so. Service may also be made personally, by first class, registered or certified mail, or by telefacsimile transmission. If service is by electronic mail or telefacsimile, an original and four copies shall be properly addressed to a board, deposited in the mail, and postmarked no later than the same day. Exhibits shall not be served electronically but shall be deemed timely filed if included in the mailed copies.

[Statutory Authority: RCW 36.70A.270(7). 09-23-009, § 242-02-320, filed 11/5/09, effective 12/6/09; 08-10-029, § 242-02-320, filed 4/28/08, effective 5/29/08; 04-21-046, § 242-02-320, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 36.70A.270(6). 94-07-033, § 242-02-320, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-320, filed 10/15/92, effective 10/15/92.]

WAC 242-02-330 Service of papers—When complete. (1) Papers required to be filed with a board shall be deemed filed upon actual receipt during office hours at the board's office.

(2) All facsimile and electronic mail transmissions are sent at the risk of the sender and only pursuant to the procedures specified in WAC 242-02-240.

(3) This section shall not extend any applicable time for appeal to a board nor extend the time for providing notice of appeal to any named party.

[Statutory Authority: RCW 36.70A.270(7). 09-23-009, § 242-02-330, filed 11/5/09, effective 12/6/09. Statutory Authority: RCW 36.70A.270(6). 94-07-033, § 242-02-330, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-330, filed 10/15/92, effective 10/15/92.]

WAC 242-02-340 Proof of service—Declaration.

Where proof of service is required by this chapter, by statute, or upon a board's request, filing the original document with the board and serving copies upon all attorneys or other authorized representatives of record and upon parties not represented together with one of the following documents shall constitute proof of service:

(1) An acknowledgment of service;

(2) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon each party or the party's attorney or other authorized representative of record in the proceeding by delivering a copy thereof in person to the named individuals;

(3) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the case by:

(a) Mailing a copy, properly addressed with postage prepaid, to each party or that party's attorney or other authorized representative; or

(b) Transmitting a copy by electronic mail or telefacsimile, and on the same day mailing a copy to each party in the case or that party's attorney, or other authorized representative; or

(c) Depositing a copy, properly addressed with charges prepaid, with a commercial parcel delivery company or courier service.

[Statutory Authority: RCW 36.70A.270(7). 09-23-009, § 242-02-340, filed 11/5/09, effective 12/6/09; 04-21-046, § 242-02-340, filed 10/15/04, effective 11/15/04. Statutory Authority: RCW 36.70A.270(6). 94-07-033, § 242-02-340, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-340, filed 10/15/92, effective 10/15/92.]

WAC 242-02-530 Motions—Requirements. (1) A motion is an application for an order or ruling. Every motion shall be in writing, unless made during a hearing; shall state with particularity the grounds; and shall set forth the relief or order sought. An original and four copies of the motion shall be filed with a board and a copy served on each opposing party or that party's attorney or other authorized representative.

(2) All motions shall be properly captioned and signed by the moving party or that party's attorney or other authorized representative.

(3) The motion shall specify the amount of time required for argument, whether appearance by telecommunication is requested, and the names, telephone numbers, and electronic mail addresses of all parties served with the motion.

(4) Dispositive motions on a limited record, similar to a motion for summary judgment in superior court or a motion on the merits in the appellate courts, are permitted. Time frames for making and responding to such a motion shall be established by the presiding officer.

(5) Motions to disqualify a hearing examiner acting as the presiding officer, or a board member, for bias, prejudice, interest or other cause, with supporting affidavit(s), may be filed with a board.

(6) Any party may bring a motion for the board to decide a challenge to compliance with the notice and public participation requirements of the act raised in the petition for review, provided that the evidence relevant to the challenge is limited. If such a motion is timely brought, the presiding officer or the board shall determine whether to decide the notice and public participation issue(s) on motion or whether to continue those issues to the hearing on the merits.

[Statutory Authority: RCW 36.70A.270(7). 09-23-009, § 242-02-530, filed 11/5/09, effective 12/6/09; 08-10-029, § 242-02-530, filed 4/28/08, effective 5/29/08; 06-12-019, § 242-02-530, filed 5/26/06, effective 6/26/06. Statutory Authority: RCW 36.70A.270(6). 94-23-112, § 242-02-530, filed 11/22/94, effective 12/23/94; 94-07-033, § 242-02-530, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-02-530, filed 10/15/92, effective 10/15/92.]

WAC 242-02-534 Response to motions. (1) A party served with a motion shall have ten days from the date of service of the motion to respond to it, unless otherwise directed by the presiding officer. A response to the motion shall be filed with a board and a copy served on the opposing party/parties.

(2) The response shall specify the amount of time required for argument, whether appearance by telecommunication is requested, and the names, telephone numbers, and electronic mail addresses of all parties served with the response.

[Statutory Authority: RCW 36.70A.270(7). 09-23-009, § 242-02-534, filed 11/5/09, effective 12/6/09. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-02-534, filed 10/15/92, effective 10/15/92.]

WAC 242-02-834 Publication of final decision and orders. Copies of all final decisions and orders are available for an individual board that entered the decision and order from the office of the growth management hearings boards. The growth management hearings boards web site is www.gmhb.wa.gov. Each board posts its decisions within its individual portion of the web site and maintains a digest of its decisions.

[Statutory Authority: RCW 36.70A.270(7). 09-21-039, § 242-02-834, filed 10/13/09, effective 11/13/09; 03-15-047, § 242-02-834, filed 7/11/03, effective 8/11/03; 00-09-094, § 242-02-834, filed 4/19/00, effective 5/20/00; 97-04-008, § 242-02-834, filed 1/24/97, effective 3/1/97.]

Chapter 242-04 WAC PUBLIC RECORDS

WAC

242-04-010	Purpose.
242-04-020	Definitions.
242-04-030	Description of organization and public meetings.
242-04-050	Communications with each board or the joint boards.
242-04-060	Public records officer.
242-04-070	Office hours.
242-04-080	Requests for public records.
242-04-090	Responses to requests for public records.
242-04-100	Copying.
242-04-110	Exemptions.
242-04-120	Review of denials of public records requests.
242-04-130	Protection of public records.
242-04-140	Records index.
242-04-150	Adoption of form.

WAC 242-04-010 Purpose. The purpose of this chapter is to ensure compliance by each individual board, the joint boards, and the office of the growth management hearings boards with the provisions of chapter 42.17 RCW, and in particular with RCW 42.17.250 through 42.17.340, dealing with public records.

[Statutory Authority: RCW 36.70A.270(7). 09-21-040, § 242-04-010, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-04-010, filed 10/15/92, effective 10/15/92.]

WAC 242-04-020 Definitions. (1) "Board" means the Eastern Washington, Western Washington, or Central Puget Sound growth management hearings board. Each is a quasi-judicial body created pursuant to chapter 36.70A RCW. Where appropriate the term board also refers to the staff and employees of each board.

(2) "Joint boards" means the three independent boards meeting or acting jointly.

(3) "Office of the growth management hearings boards" means the administrative office of the three growth management hearings boards established in RCW 36.70A.250.

(4) "Public record" means 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.

(5) "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 pictures, 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.

[Statutory Authority: RCW 36.70A.270(7), 09-21-040, § 242-04-020, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6), 94-23-112, § 242-04-020, filed 11/22/94, effective 12/23/94; 92-21-034, § 242-04-020, filed 10/15/92, effective 10/15/92.]

WAC 242-04-030 Description of organization and public meetings. (1) Each board is an independent agency of the state of Washington, composed of three members appointed by the governor. Each board elects an administrative chairperson from its members at least annually.

(2) The administrative chairpersons constitute the administrative committee of the joint boards.

(3) Regular meetings of each board will be held at the office of the growth management hearings boards or other designated location at the following times:

(a) Eastern Washington board - on the first Wednesday of each month at 10:00 a.m.

(b) Western Washington board - on the second Wednesday of each month at 11:00 a.m.

(c) Central Puget Sound board - on the first Monday of each month at 10:00 a.m.

(4) The joint boards, comprised of the members of the three individual boards, shall meet at least annually at a time and location to be announced.

(5) The office of the growth management hearings boards provides for the administrative operations of the three individual boards and the joint boards.

[Statutory Authority: RCW 36.70A.270(7), 09-21-040, § 242-04-030, filed 10/13/09, effective 11/13/09; 00-09-094, § 242-04-030, filed 4/19/00, effective 5/20/00; 98-01-144, § 242-04-030, filed 12/19/97, effective 1/20/98. Statutory Authority: RCW 36.70A.270(6), 92-21-034, § 242-04-030, filed 10/15/92, effective 10/15/92.]

WAC 242-04-050 Communications with each board or the joint boards. (1) All communications with a board, including but not limited to the submission of materials pertaining to its operations and/or administration or enforcement of chapter 42.17 RCW and these rules, requests for copies of each board's decisions and other matters, shall be addressed to the appropriate board as follows:

The Office of the Growth Management Hearings Boards
(Insert name of appropriate board)
319 - 7th Avenue S.E.
Olympia, WA 98501
P.O. Box 40953
Olympia, WA 98504-0953
360-586-0260
360-664-6975 fax
e-mail: eastern@ew.gmhba.wa.gov

western@wwgmhb.wa.gov
central@cps.gmhba.wa.gov
web site: www.gmhba.wa.gov

(2) All communications with the joint boards shall be addressed as noted in subsection (1) of this section.

[Statutory Authority: RCW 36.70A.270(7), 09-21-040, § 242-04-050, filed 10/13/09, effective 11/13/09; 08-10-030, § 242-04-050, filed 4/28/08, effective 5/29/08; 03-15-047, § 242-04-050, filed 7/11/03, effective 8/11/03; 00-09-094, § 242-04-050, filed 4/19/00, effective 5/20/00; 98-01-144, § 242-04-050, filed 12/19/97, effective 1/20/98; 97-04-008, § 242-04-050, filed 1/24/97, effective 3/1/97. Statutory Authority: RCW 36.70A.270(6), 94-23-112, § 242-04-050, filed 11/22/94, effective 12/23/94; 94-07-033, § 242-04-050, filed 3/9/94, effective 4/9/94; 92-21-034, § 242-04-050, filed 10/15/92, effective 10/15/92.]

WAC 242-04-060 Public records officer. (1) The administrative chairperson responsible for management of the office of the growth management hearings boards, or his/her designee, shall be in charge of the public records for all three boards and for the joint boards.

(2) Such person shall be responsible for implementation of these rules and regulations regarding release of public records, and generally assuring compliance with the public records disclosure requirements of chapter 42.17 RCW, and in particular RCW 42.17.250 through 42.17.340.

[Statutory Authority: RCW 36.70A.270(7), 09-21-040, § 242-04-060, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6), 92-21-034, § 242-04-060, filed 10/15/92, effective 10/15/92.]

WAC 242-04-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the office of the growth management hearings boards. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 36.70A.270(7), 09-21-040, § 242-04-070, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6), 92-21-034, § 242-04-070, filed 10/15/92, effective 10/15/92.]

WAC 242-04-080 Requests for public records. In accordance with the provisions of chapter 42.17 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied, or copies of such records may be obtained, by members of the public upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the joint boards which shall be available at the office of the growth management hearings boards. A completed form shall be presented to the public records officer or to any staff member at the office of the growth management hearings boards during customary office hours. The request shall include the following information:

(a) The name and address of the person requesting the record and the organization represented, if any;

(b) The time of day and calendar date on which the request was made;

(c) A description of the material requested;

(d) If the matter requested is referenced within the current index maintained by the public records officer, a refer-

ence to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to a current index, an appropriate identification of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.

[Statutory Authority: RCW 36.70A.270(7). 09-21-040, § 242-04-080, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-04-080, filed 10/15/92, effective 10/15/92.]

WAC 242-04-090 Responses to requests for public records. Within five business days of receiving a public record request, the public records officer must respond by either:

(1) Providing the record;

(2) Acknowledging that the public records officer has received the request for an individual board or the joint boards and providing a reasonable estimate of the time that the public records officer will require to respond to the request. Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, the public records officer may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the public records officer need not respond to it; or

(3) Denying the public record request.

[Statutory Authority: RCW 36.70A.270(7). 09-21-040, § 242-04-090, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-04-090, filed 10/15/92, effective 10/15/92.]

WAC 242-04-100 Copying. No fee shall be charged for the inspection of public records. The public records officer, on behalf of either an individual board or the joint boards, shall charge a reasonable fee for providing copies of public records and for use of the office of the growth management hearings boards' photocopy equipment. The public records officer may charge a reasonable fee for electronic facsimile transmissions (fax). The charge is the amount necessary to reimburse the office of the growth management hearings boards for its actual costs incident to such copying or transmission.

[Statutory Authority: RCW 36.70A.270(7). 09-21-040, § 242-04-100, filed 10/13/09, effective 11/13/09; 98-01-144, § 242-04-100, filed 12/19/97, effective 1/20/98. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-04-100, filed 10/15/92, effective 10/15/92.]

WAC 242-04-110 Exemptions. (1) The public records officer, on behalf of each individual board or the joint boards, reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 242-04-080 is exempt under the provisions of RCW 42.17.310 including but not limited to the following:

(a) Personal information in files maintained for members and employees of an individual board, the joint boards, or the office of the growth management hearings boards, to the extent that disclosure would violate their right to privacy;

(b) Preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action;

(c) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(d) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(2) Pursuant to RCW 42.17.260, the public records officer reserves the right to delete identifying details when he/she makes available or publishes any public records, in all cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All public records otherwise exempt by law shall be considered exempt under the provision of these rules.

[Statutory Authority: RCW 36.70A.270(7). 09-21-040, § 242-04-110, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-04-110, filed 10/15/92, effective 10/15/92.]

WAC 242-04-120 Review of denials of public records requests. Any person who objects to a denial of a public records request or who objects to the reasonableness of the estimate of the time the public records officer requires to respond to a public records request, shall petition the superior court in the county in which the record is maintained under the provisions of RCW 42.17.340.

[Statutory Authority: RCW 36.70A.270(7). 09-21-040, § 242-04-120, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-04-120, filed 10/15/92, effective 10/15/92.]

WAC 242-04-130 Protection of public records. In order to protect the public records in the custody of each individual board, the joint boards, or the office of the growth management hearings boards, the following guidelines shall be followed by any person inspecting such public records:

(1) No public records shall be removed from the office;

(2) Inspection of any public record shall be conducted in the presence of the public records officer or his/her designee;

(3) No public record may be marked or defaced in any manner during inspection;

(4) Public records which are maintained in the file jacket, or in chronological order, may not be dismantled except for purpose of copying, and then only by the public records officer or his/her designee;

(5) Access to file cabinets, shelves, vaults, and other storage locations is restricted to the public records officer, board members, and staff.

[Statutory Authority: RCW 36.70A.270(7). 09-21-040, § 242-04-130, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6). 92-21-034, § 242-04-130, filed 10/15/92, effective 10/15/92.]

WAC 242-04-140 Records index. (1) Index. The public records officer has available to all persons a current index which provides identifying information as to records which have been issued, adopted, or promulgated since May 15, 1992, as follows:

- (a) Final orders, including concurring and dissenting opinions, made in the adjudication of cases;
- (b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by an individual board and/or the joint boards;
- (c) Administrative staff manuals and instructions to staff that affect a member of the public;
- (d) Individual board and joint board planning policies and goals, and interim and final planning decisions;
- (e) Factual staff reports and studies, a consultant's factual reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and
- (f) Correspondence, and materials referred to therein, by and with an individual board, the joint boards, or the office of the growth management hearings boards relating to any regulations, supervisory or enforcement responsibilities of the growth management hearings boards, where an individual board determines or is asked to determine the rights of the state, the public, a subdivision of state government, or of any private party.

(2) Availability. The current index promulgated by the public records officer shall be available for inspection by all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 36.70A.270(7), 09-21-040, § 242-04-140, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6), 92-21-034, § 242-04-140, filed 10/15/92, effective 10/15/92.]

WAC 242-04-150 Adoption of form. Each individual board and the joint boards adopts the use by all persons requesting inspection and/or copies of records the form set out below, entitled "Request for inspecting and/or copying public records."

We have received your request for inspection of and/or copies of our public records. Please complete this form and return it with the amount required, if applicable. We will forward the requested copies to you as soon as we receive this completed form with payment.

Return to:

PUBLIC RECORDS OFFICER

OFFICE OF THE GROWTH MANAGEMENT HEARINGS BOARDS
(INSERT APPROPRIATE BOARD'S NAME)
REQUEST FOR INSPECTING AND/OR COPYING PUBLIC
RECORDS

Date:

Name:

Address:

Day Phone Number:

Description of Record(s) Requested:

I certify that the information obtained through this request for public records will be used in compliance with chapter 42.17 RCW.

Signature

Number of Copies

Number of Pages

Per Page Cost \$

Total Charge \$

[Statutory Authority: RCW 36.70A.270(7), 09-21-040, § 242-04-150, filed 10/13/09, effective 11/13/09. Statutory Authority: RCW 36.70A.270(6), 94-23-112, § 242-04-150, filed 11/22/94, effective 12/23/94; 92-21-034, § 242-04-150, filed 10/15/92, effective 10/15/92.]