

ORDINANCE NO. 2747

AN ORDINANCE AMENDING ORDINANCE NO. 2745 (ADOPTING PUBLIC RECORDS ACT RULES FOR THE CITY OF ANACORTES)

WHEREAS, the City of Anacortes wishes to narrow the deliberative process exemption as set forth in Section 5(3) of Ordinance No. 2745;

NOW BE IT ORDAINED that Ordinance No. 2745 be and is hereby amended such that Section 5(3) is hereby replaced in its entirety with the following language:

Deliberative process exemption RCW 42.17.310(1)(i)/42.56.210 (1)(i) exempts "Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended" except if the record is cited by the City.

In order to rely on this exemption, the City must show that the records contain predecisional opinions or recommendations of subordinates expressed as part of a deliberative process; that disclosure would be injurious to the deliberative or consultative function of the process; that disclosure would inhibit the flow of recommendations, observations, and opinions; and finally, that the materials covered by the exemption reflect policy recommendations and opinions and not the raw factual data on which a decision is based. Courts have held that this exemption is "severely limited" by its purpose, which is to protect the free flow of opinions by policy makers. It applies only to those portions of a record containing recommendations, opinions, and proposed policies; it does not apply to factual data contained in the record. The exemption does not apply to records or portions of records concerning the implementation of policy or the factual basis for the policy. The exemption does not apply merely because a record is called a "draft" or stamped "draft." Recommendations that are actually implemented lose their protection from disclosure after they have been adopted by the agency.

EFFECTIVE DATE. This ordinance shall take effect from and after five (5) days after its passage and publication as required by law.

PASSED AND APPROVED this 2nd day of October 2006.

CITY OF ANACORTES:

BY: H. Dean Maxwell
H. Dean Maxwell, Mayor

ATTEST:

Wanda Phillips
Wanda Phillips, City Clerk Treasurer

APPROVED AS TO FORM:

Ian S. Munce
Ian S. Munce, City Attorney

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