

Hangzhou Municipal Provisions on Open Government Information

(Hangzhou Municipal People's Government Decree No. 202 issued on April 27, 2004;
revised in accordance with the Decision of the Hangzhou Municipal People's
Government on August 7, 2008 to Revise Certain Articles of the Hangzhou Municipal
Provisions on Open Government Information)

Chapter I. General Principles

Article 1. In order to establish a just and transparent administrative management system, protect the right to know of citizens, legal persons and other organizations, and supervise government organs in the exercise of their powers in accordance with the law, these Provisions are formulated on the basis of the provisions of such laws and regulations as the Regulations of the People's Republic of China on Open Government Information, together with the actual circumstances of this Municipality.

Article 2. "**Government information**" referred to in these Provisions means information made or obtained by each level of people's government and their departments in the course of exercising their administrative management responsibilities or providing public services and recorded and stored in a given form.

These Provisions shall apply to open government information activities of organizations that are authorized by laws or regulations to exercise functions of managing public affairs.

Article 3. These Provisions shall apply to open government information work within the administrative regions of Hangzhou Municipality.

Article 4. The municipal, district and county (city) people's governments shall establish an open government information joint conference system, composed of the government's general office, the department in charge of informatization, the supervision department, the government legal affairs agency and other relevant government departments, to be responsible for research and coordination of major issues in the process of advancing open government information.

The municipal, district and county (city) people's government departments in charge of informatization shall be responsible for organizing, guiding and promoting the implementation of these Provisions.

The municipal, district and county (city) people's government legal affairs agencies and supervision departments shall in accordance with their respective

responsibilities supervise the implementation of these Provisions.

Article 5. All levels of people's government and its functional departments and organizations that are authorized by laws or regulations to exercise functions of managing public affairs are persons with the obligation to disclose government information (hereafter "**persons with the obligation to disclose**"). They should carry out in accordance with the law their obligation to disclose government information.

Persons with the obligation to disclose should designate a specialized agency and personnel within their departments to handle open government information affairs, which shall be responsible for the daily work of open government information for their departments and shall publish the method of contacting them.

Individuals, legal persons and other organizations are persons with the right of access to government information (hereafter "**persons with the right of access**"). They enjoy the right to obtain government information in accordance with the law.

The concrete responsibilities of the offices that are responsible for the daily work of open government information for their unit (hereafter "**OGI work offices**") shall be:

- 1) To undertake specific open government information matters for their units;
- 2) To maintain and update government information disclosed by their units;
- 3) To organize for their units the compilation of an open government information guide, open government information catalogue and annual reports on open government information work;
- 4) To conduct examinations for secrecy of government information to be disclosed; and
- 5) To carry out other responsibilities related to open government information stipulated by their units.

Article 6. Disclosure of government information shall be the principle, and non-disclosure the exception.

Disclosing government information should follow the principles of lawfulness, timeliness, authenticity, impartiality and convenience to the people.

Persons with the obligation to disclose should disclose government information promptly and accurately. When they discover false or incomplete information that affects or might affect social stability and disturbs the social management order, they should release, within their scope of responsibility, accurate government information to clarify the situation.

Article 7. No individual, legal person or other organization may unlawfully obstruct or limit the activities of disclosing government information by persons with the obligation to disclose, or the right of persons with the right of access to obtain government information in accordance with the law.

Article 8. Persons with the obligation to disclose should establish and perfect a coordination mechanism for releasing government information. When persons with the obligation to disclose release government information that involves other units, they should communicate and confirm with the units concerned to ensure the government information released is accurate and consistent.

If the government information to be released by persons with the obligation to disclose needs to be approved in accordance with relevant state regulations, it may not be released without being approved.

Article 9. The expenses of disclosing government information by all levels of the people's government should be entered into the annual finance budget, to protect the normal operation of activities of open government information.

Article 10. The government information disclosed by persons with the obligation to disclose may not endanger state security, public security, economic security and social stability.

Chapter II. The Content to be Disclosed

Article 11. Persons with the obligation to disclose should proactively disclose government information that satisfies any one of the following basic criteria:

- 1) Information that involves the vital interests of citizens, legal persons or other organizations;
- 2) Information that needs to be extensively known or participated in by the general public;
- 3) Information that shows the institutional structure, function and working procedures of and other matters relating to their units; and
- 4) Other information that should be proactively disclosed according to laws, regulations and relevant state provisions.

Article 12. The municipal, district and county (city) people's governments and their departments should determine the concrete content of the government information to be disclosed proactively within their scope of responsibility in accordance with the provisions of Article 11 of these Provisions, and emphasize disclosure of the following government information:

- 1) Administrative regulations, rules, and normative documents;
- 2) Plans for national economic and social development, plans for specific projects, plans for regional development and related policies;
- 3) Statistical information on national economic and social development;
- 4) Reports on financial budgets and final accounts;
- 5) Items subject to an administrative fee and the legal basis and standards therefor;

- 6) Catalogues of the government's centralized procurement projects, their standards and their implementation;
- 7) Matters subject to administrative licensing and their legal bases, conditions, quantities, procedures and deadlines and catalogues of all the materials that need to be submitted when applying for the administrative licensing, and the handling thereof;
- 8) Information on the approval and implementation of major construction projects;
- 9) Policies and measures on such matters as poverty assistance, education, medical care, social security and job creation and their actual implementation;
- 10) Emergency plans for, early warning information concerning, and counter measures against sudden public incidents;
- 11) Information on the supervision and inspection of environmental protection, public health, safe production, food and drugs, and product quality;
- 12) Important and major matters in urban and rural construction and management;
- 13) Information on the construction of social and public interest institutions;
- 14) Information on land requisition or land appropriation, household demolition and resettlement, and the distribution and use of compensation or subsidy funds relating thereto; and
- 15) Information on the management, usage and distribution of social donations in funds and in kind for emergency and disaster relief, special care for families of martyrs and military service personnel, and assistance to poverty stricken and low income families.

Article 13. The government information that municipal, district and county (city) people's governments and their departments emphasize for disclosure should include the following contents:

- 1) The situation of land supply and real estate transactions;
- 2) The construction and allocation of economic use housing and the situation of construction and applications for low income housing;
- 3) The situation of open tenders for and selection of bids for major urban infrastructure construction projects and project progress;
- 4) The situation of use of special funds and [other] funds;
- 5) The situation conditions, procedures and results regarding recruitment for examination and hiring of civil servants and open appointment of cadres;
- 6) The agency structure, office address and method of contact of persons with the obligation to disclose;
- 7) The situation of the functions, basis for establishment, work conditions, work procedures, work deadlines and channels of supervision and remedies of persons with the obligation to disclose;
- 8) The names, division of responsibilities and method of contacting work personnel of persons with the obligation to disclose; and
- 9) Other government information that should be disclosed as provided by laws, regulations and rules.
- 10) If laws and regulations have other provisions regarding the jurisdiction to disclose the matters set forth in the previous clauses, those provisions shall be followed.

Article 14. People's governments at the township (town) level should determine the concrete content of the government information to be disclosed proactively within their scope of responsibility in accordance with the provisions of Article 11 of these Provisions, and emphasize disclosure of the following government information:

- 1) Information on the implementation of rural work policies of the state;
- 2) Information on fiscal income and expenses and the management and use of various specialized funds;
- 3) Overall township (town) land use plans and information on the verification of land to be used by farmers for their primary residences;
- 4) Information on land requisition or land appropriation, household demolition and resettlement, and the distribution and use of compensation or subsidy funds therefor;
- 5) Information on township (town) credits and debts, fund raising and labor levies;
- 6) Information on the distribution of social donations in funds and in kind for emergency and disaster relief, special care for families of martyrs and military service personnel, and assistance to poverty stricken and low income families;
- 7) Information on contracting, leasing and auctioning of township and town collectively owned enterprises and other township and town economic entities; and
- 8) Information on implementation of the family planning policy.

Article 15. In addition to government information disclosed proactively by persons with the obligation to disclose provided for in Articles 11, 12, 13 and 14, citizens, legal persons or other organizations may, based on the special needs of such matters as their own production, livelihood and scientific research, also file requests to persons with the obligation to disclose to obtain relevant government information. Except for information that is prohibited from being disclosed by law, regulation or these Provisions, persons with the obligation to disclose should disclose the information in accordance with the request to the persons with the right of access.

Article 16. If a matter involves the major interests of citizens, legal persons or other organizations, or has a major social influence, the system of advance disclosure shall be implemented prior to the formal decision. The drafting organ or the decision-making organ should disclose the draft to society and the decision shall be made after fully listening to the public's opinions.

Article 17. The following government information shall be exempted from disclosure:

- 1) Information that falls within state secrets;
- 2) Information that involves a commercial secret;
- 3) Information that involves individual privacy;

- 4) Information that is in the course of being investigated, discussed or processed, except where laws, regulations or these Provisions otherwise stipulate;
- 5) Information relating to administrative enforcement, the disclosure of which might influence enforcement activities such as examination, investigation or gathering of evidence or might endanger an individual's life or safety;
- 6) Other information exempted from disclosure by the provisions of laws and regulations.

The exemption from disclosure for government information listed in Clauses (2) and (3) of this Article need not apply if:

- a) The rights holder or a relevant party agrees to the disclosure;
- b) Persons with the obligation to disclose believe that non-disclosure might give rise to a major impact on the public interest, provided that they should notify the rights holder or relevant party in writing of the content of the government information they decided to disclose and the reason therefor;
- c) Laws or regulations stipulate that the information may be disclosed.

If disclosing the government information listed in Clauses (4) and (5) of this Article would clearly be in the public interest and would not cause substantial injury, the persons with the obligation to disclose may decide to disclose it.

Article 18. Persons with the obligation to disclose should establish and perfect mechanisms to examine for secrecy the government information to be released, and clarify the examination procedures and responsibilities.

Prior to disclosing government information, persons with the obligation to disclose should examine the government information to be disclosed in accordance with the provisions of the Law of the People's Republic of China on Safeguarding State Secrets and other laws, regulations and relevant state provisions.

When persons with the obligation to disclose are unable to determine if certain government information may be disclosed, they should submit the matter for determination to relevant departments in charge or departments for safeguarding secrecy at the same level as the administrative organ.

Article 19. Persons with the obligation to disclose should ensure the timeliness and validity of the government information they release and should timely update released government information when there are changes.

Chapter III. Methods of and Procedures for Disclosure

Article 20. Government information that is disclosed in accordance with Articles 11, 12, 13 and 14 of these Provisions should be disclosed through one or more of the following methods:

- 1) The Hangzhou, China government website and its subordinate websites;
- 2) The government gazette or other special government information publications that are publicly released;
- 3) Media such as newspapers and periodicals, broadcasts, television and computer information networks;
- 4) Places or facilities such as public reading rooms, materials request stations, government information bulletin boards, and electronic information screens;
- 5) Press conferences;
- 6) Open government information service hot lines;
- 7) All levels and kinds of archives and current documents reading service centers; and
- 8) Other forms to facilitate the public timely and accurately to obtain government information.

Article 21. The municipal, district and county (city) people's governments should set up government information reading places in the state archives and public libraries and install appropriate facilities and equipment to make it convenient for citizens, legal persons and other organizations to obtain government information.

Persons with the obligation to disclose may set up, as needed, places and facilities such as public reading rooms, materials request stations, information bulletin boards, and electronic information screens to disclose government information.

Article 22. When persons with the obligation to disclose make government information, the unit that made such government information shall be responsible for disclosing government information that they have made; when persons with the obligation to disclose obtain government information from citizens, legal persons or other organizations, the unit that stores such government information shall be responsible for disclosing it. If laws or regulations have different provisions regarding the jurisdiction to disclose government information, those provisions shall be followed.

The relevant provisions of laws, administrative regulations and relevant provisions of the state on the management of archives shall apply to the management of government information that has already been transferred to the archives and archival work agencies.

Article 23. Government information within the scope to be disclosed proactively should be disclosed within 20 business days from the date the information is produced or changed, and should be submitted to the state archives and public libraries. If laws or regulations have different provisions on the time period for disclosing government information, those provisions shall be followed.

Article 24. If persons with the obligation to disclose do not carry out the obligation to proactively disclose in accordance with Articles 11, 12, 13 and 14 of these Provisions, a person with the right of access may request, orally, in writing, by e-mail or

other format, the person with the obligation to disclose to carry out its obligation. The person with the obligation to disclose should, within 10 days of receiving the request, disclose the information to society.

If the information that the person with the right of access requests to be disclosed has already been disclosed, the person with the obligation to disclose should direct [the requesting party where the information can be obtained]. If the information is within the scope of obligation to proactively disclose of a different department, the receiving department should so notify the person with the right of access.

Article 25. Persons with the right of access may request, in accordance with the stipulations of Article 15 of these Provisions, to obtain other government information outside the scope that is to be proactively disclosed by submitting a request to the person with the obligation to disclose by such means as a letter, telegraph, fax or e-mail. In the event that it is truly difficult use a written form, the requester may submit it orally and the person with the obligation to disclose accepting the request shall fill out the request for open government information on the requester's behalf. Requests for open government information should include the following contents:

- 1) The name of the individual or organization making the request, identification and the method of contact;
- 2) A description of the requested government information; and
- 3) Requirements as to the format in which the requested government information is to be supplied.

Article 26. After receiving requests for open government information, persons with the obligation to disclose should reply to the requests on-the-spot when they can do so. If an on-the-spot reply is not possible, they should provide a reply within 15 business days from the day they receive a request.

If an extension of the time limit for replying to a request is needed due to objective reasons such as handling the information materials and other legitimate reasons, the agreement of the responsible person in charge of the office for open government information work should be obtained, the requester notified, and the maximum extension of the time limit for replying to a request may not exceed 15 business days.

If the requested government information involves the rights and interests of a third party, the time needed by persons with the obligation to disclose to seek the opinion of the third party shall not be counted against the time limits stipulated in Paragraphs 1 and 2 of this Article.

Article 27. If the government information requested is not within the scope of control of the person with the obligation to disclose receiving the request or does not exist, the person with the obligation to disclose should promptly notify the requester should be so informed; if the person with the obligation to disclose such information can be determined, the requester shall be informed of the name of the person with the

obligation to disclose and the method to contact that person.

If the content of the request is not clear, the person with the obligation to disclose receiving the request should notify the requester to revise or supplement the content of the request.

If the same requester makes repeated requests to the person with the obligation to disclose for disclosure of the same government information, the person with the obligation to disclose need not redundantly respond.

Article 28. If due to *force majeure* or other legally prescribed matters, a person with the obligation to disclose cannot respond to the requester within the stipulated time limit, the time limit shall be suspended and the person with the obligation to disclose should promptly notify the requester of the reason for the suspension.

The time limit shall resume being calculated after the reason for the suspension is eliminated.

Article 29. If the government information requested to be disclosed contains content that is prohibited or restricted from disclosure, but that content can be handled through segregation, the person with the obligation to disclose should disclose to the requester the content that can be disclosed.

If the indication to a requester by the person with the obligation to disclose as to whether certain government information exists might result in government information that should not be disclosed actually being disclosed, the person with the obligation to disclose has the right not to confirm whether that information exists.

Article 30. When citizens, legal persons or other organizations request persons with the obligation to disclose to provide government information about themselves such as taxes and fee payments, social security and medical care information, they should show valid identification certificates or certifying documents.

If citizens, legal persons or other organizations have evidence showing that the government information provided by a person with the obligation to disclose concerning them is not recorded accurately, they have the right to request the information to be corrected. If the person with the obligation to disclose does not have the authority to make the correction, the case should be transferred to the unit that does have such authority, and the requester shall be so informed.

Article 31. When providing government information on request, persons with the obligation to disclose shall provide the information in the format requested by the requesters. If it is impossible to provide the information in the format requested by the requesters, person with the obligation to disclose may provide the information through making arrangements for the requesters to read the relevant materials, providing photocopies or using other appropriate methods to provide it.

Article 32. When disclosing government information on request, persons with the obligation to disclose may only collect fees from persons with the right of access in accordance with the law fees for the actual cost of such expenses as for retrieval, duplication and postage, and may not collect other fees.

Article 33. Persons with the obligation to disclose that tell persons with the right of access that government information may not be disclosed, or that the government information may not be provided to them, may not then provide such information as a compensated service or as a compensated service in disguise, and may not provide it to persons with the right of access through enterprises, institutions or intermediary organizations that have a subordinate or business guidance relationship with such persons with the obligation to disclose.

Article 34. Persons with the obligation to disclose should compile and publish open government information guides and catalogues of open government information, update them promptly, and report them for the record to the departments in charge of informatization at the same level each year before the end of the year.

Open government information guides should include such contents as the types of government information, the system of cataloguing, the methods for obtaining information, and the name, office address, office hours, contact telephone number, fax number and e-mail address of the OGI work office.

Open government information catalogues should include such contents as an index, the name of the information, a summary of the information contents and the date of creation of the information.

Article 35. All levels of people's government shall establish and perfect the government spokesperson system, to represent their level of government to release government information to society.

The functional departments of each level of people's government and organizations that are authorized by laws or regulations to exercise functions of managing public affairs shall, based on the actual requirements, establish their own departmental press spokesperson system.

Article 36. If a citizen requesting disclosure of government information truly has economic difficulties, the relevant fee may be reduced or exempted after an application for such reduction or exemption is submitted by the requester and verified and approved by the responsible person of the OGI work office.

If citizens requesting disclosure of government information have trouble reading or obstacles to hearing and seeing, administrative organs should provide them with necessary assistance.

Chapter IV. Supervision and Remedies

Article 37. The municipal, district and county (city) people's government departments in charge of informatization should, before the end of March each year, publish an annual report on open government information for its administrative region. The annual report should include the following contents:

- 1) The situation concerning proactive disclosure of government information by persons with the obligation to disclose;
- 2) Statistics on the disclosure of government information requested by persons with the right of access;
- 3) Statistical break-down of by category of information the persons with the obligation to disclose agreed to disclose, disclosed in part, or was exempted from disclosure;
- 4) Information on fee collection and fee reductions and exemptions concerning open government information;
- 5) Information on applications for administrative reconsideration and filing of administrative lawsuits in respect of open government information;
- 6) The main problems existing in open government information work and the information on improvements thereof; and
- 7) Other items that need to be reported.

Persons with the obligation to disclose should before the end of each year, carry out a summary of their own departmental open government information work situation in the preceding year and provide a written summary to the departments in charge of informatization.

Article 38. The municipal people's government legal affairs agencies together with relevant departments shall be responsible for periodically carrying out appraisal and assessment of the implementation of open government information by the people's government functional departments at their level, the organizations that are authorized by laws or regulations to exercise functions of managing public affairs, and the municipal, district and county (city) people's governments.

The municipal, district and county (city) people's government legal affairs agencies together with relevant departments shall be responsible for periodically carrying out appraisal and assessment of the implementation of open government information by the people's government functional departments at their level, organizations that are authorized by laws or regulations to exercise functions of managing public affairs, dispatched government agencies,¹ and the township and town people's governments.

The concrete standards for appraisal shall be separately stipulated by the municipal people's government.

¹ These 派出机构 are subordinate offices at various levels that are not independent of the entity that established them, such as so-called street committees, local police stations, etc.

Article 39. If a person with the obligation to disclose violates these Provisions and in any one of the following situations, the supervision organ or the administrative department in charge at the next higher level shall order that the situation be corrected; if the circumstances are serious, administrative penalties shall be imposed in accordance with the law on the personnel directly in charge and on other personnel who are directly responsible. If the behavior constitutes a crime, criminal responsibility shall be pursued in accordance with the law:

- 1) Failure to fulfill, in accordance with the law, open government information obligations;
- 2) Failure to promptly update the contents of government information that has been disclosed, the guide to open government information and the catalogue of open government information;
- 3) Collecting fees in violation of provisions;
- 4) Providing government information as a paid service through other organizations or individuals;
- 5) Disclosing government information that should not be disclosed; and
- 6) Other actions that violate these Provisions.

Article 40. If a person with the obligation to disclose fails to establish and perfect, in violation of these Provisions, a secrecy examination mechanism for releasing government information, the supervision organ or the administrative department in charge at the next higher level shall order that the situation be corrected. If the circumstances are serious, administrative penalties shall be imposed in accordance with the law on the principal responsible person(s) of that administrative organ.

Article 41. Persons with the obligation to disclose that violate these Provisions and conceal or provide false government information, or that reveal commercial secrets or private individual information and thereby cause injury to a party, should bear responsibility for compensation in accordance with the law. The relevant personnel who are suspected of having committed a crime shall be turned over to the judicial organs for handling.

Article 42. If persons with the right of access believe a person with the obligation to disclose has failed to fulfill, in accordance with the law, its obligations in respect of open government information, they may report it to the supervision organ or the next higher level department in charge of the person with the obligation to disclose. The organ that receives the report should investigate and handle it.

If persons with the right of access believe a specific administrative action of a person with the obligation to disclose in its open government information work has infringed their lawful rights and interests, they may, in accordance with the law, apply for administrative reconsideration or file an administrative lawsuit.

Chapter V. Supplementary Provisions

Article 43. The district and county (city) people's governments, functional departments of the municipal government and organizations that are authorized by laws or regulations to exercise the functions of managing public affairs may formulate concrete implementing regulations based on these Provisions.

Disclosing information that is made or obtained in the course of providing public services by public enterprises and institutions that are closely related to the people's interests such as education, medical care, family planning, water supply, electricity supply, gas supply, heating, environmental protection and public transportation shall be carried out with reference to these Provisions.

Article 44. These Provisions shall go into effect on October 1, 2004.