

RESOLUTION NO. 1462

A RESOLUTION ESTABLISHING RULES FOR INSPECTION AND COPYING OF PORT OF PASCO PUBLIC RECORDS

BE IT HEREBY RESOLVED By the Commission of the Port of Pasco that the following be adopted:

PUBLIC RECORDS REQUEST

The Commission of the Port recognizes that access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to sound governance.

The Commission of the Port further recognizes, to the extent allowed by law, that access to public records is necessary to assure continuing public confidence of fairness and to assure that public interest will be fully protected.

The Port shall respond promptly to requests for inspection, copying and electronic transmission of its public records, and shall not make any distinctions in releasing or not releasing records based upon the identity of the person or agency requesting the public records, absent statutory provisions or other laws to the contrary.

The Port will not be required to fabricate, construct, reconstruct or manufacture records that do not already exist.

Public records* retained by the Port are considered valuable administrative and/or historical documents. In determining the format of public records provided to the public, consideration shall be given to providing the documents in the most expedient and efficient manner, while ensuring the validity and integrity of the public record.

*The definition of public records does not include records that are not required to be retained by the Port and are held by volunteers who: a) Do not serve in an administrative capacity; b) Have not been appointed by the agency to an agency board, commission, or internship; and c) Do not have a supervisory role or delegated agency authority.

Upon receipt of a public records request, any responsive records scheduled for destruction in accordance with the Port's records retention schedules will be maintained and not destroyed until conclusion of the public records request.

A public records index will not be developed as the Port of Pasco's size makes it burdensome for personnel to create and maintain the index.

PUBLIC RECORDS OFFICER

The established place where public records are available is the Port's main office in Pasco, Washington. The Commission shall designate a Public Records Officer, knowledgeable in the requirements of the Washington Public Records Act, whose responsibility it will be to serve as a point of contact for members of the public requesting public records, and whose responsibility it will be to oversee the Port's compliance with the Washington Public Records Act.

The Public Records Officer, or designee, will review and schedule all inspections and/or requests for identifiable public records to ensure compliance with public records laws and to ensure the least disruption possible to the operations of the Port during such inspection/copying/electronic

transmission. Copies of public records will not be furnished, nor inspection allowed, when and to the extent that it would unreasonably disrupt the operations of the Port.

RULES FOR INSPECTION, COPYING AND ELECTRONIC TRANSMISSION OF PUBLIC RECORDS

Public records may be inspected and/or copies obtained upon compliance with the following:

- 1) All requests for public records shall be made to the Public Records Officer. A Request for Public Record form is available to the public at the Port of Pasco main office or online at www.portofpasco.org/businesswithport/public_info.php
- 2) Requests for public records received via mail or e-mail in an alternate format may be recognized as a public records request provided the document includes the name and contact information of the requestor, is reasonably identified or labeled as a public records request, and provides an adequate description of the public record(s) being requested.
- 3) Upon receipt of a public records request, the Port shall respond to the requestor within five business days as follows:
 - a) Make the records available for inspection or copying or the requestor may be provided the Port's internet address and link to the records requested that are available on the website;
 - b) If copies are requested and payment of deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies of the requestor;
 - c) Acknowledge the request and provide a reasonable estimate of when records will be available; or
 - d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor, and provide, to the greatest extent possible, a reasonable estimate of the time that will be needed to respond to the request. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or
 - e) Deny the request. The request can only be denied if it is not an actual request for public record(s), a record does not exist, or if the record in its entirety is legally exempt from disclosure.
- 4) Public records shall be made available for inspection and/or copying during the customary office hours of the Port. The requestor must claim or review the assembled records within thirty (30) days of the Port's notification to the requestor that the records are available for inspection or copying.
- 5) The Public Records Officer, or designee, will oversee public review of any public records in order to ensure the integrity and security of the Port's records.
- 6) The Public Records Officer, or designee, will provide the utmost cooperation to the public in responding to requests for public records, and ensure records are provided in an expedient and efficient manner.
- 7) Public records will normally be provided in hard copy format, or in the currently held record format. Consideration for disclosure of electronic information not held in hard copy format shall be contingent upon the ability to obtain valid information with existing proven search criteria and ensuring record integrity.
- 8) Copying public records may be referred to outside copying facilities, at the discretion of the Port.
- 9) Large public records requests may be provided to the requestor on a partial or installment basis to expedite fulfilling the request. If a request is fulfilled on a partial or installment

basis and the requestor fails to inspect the entire set of records, or one or more of the installments within thirty (30) days, the public records officer or designee may stop searching for the remaining records and close the request

- 10) Public records requests that require use of information technology expertise to prepare the data compilations or to provide customized electronic access services that are not otherwise used by the Port will require a deposit of up to 10% of the estimated service charge costs.

COPY FEE SCHEDULE

Inspection of public records, including the assembling and gathering of public records for review, is provided free of charge.

The following fee schedule will apply for copies of public records:

Copy Cost, black and white, single-sided	First 25 pages are no charge, each additional page will be \$.15 cents per page, includes 8x10, 8.5x14 and 11x17 paper
Large Paper Printing	Actual Cost

The following fee schedule will apply for the transmission of electronic records or scanning existing Port paper or other non-electronic records:

- Ten cents (\$.10) per page for public records scanned into an electronic format or for the use of agency equipment to scan the records.
- Five cents (\$.05) per each four electronic files or attachments uploaded to email, a cloud-based data storage service, or other means of electronic delivery.
- Ten cents (\$.10) per gigabyte for the transmission of public records in an electronic format or for the use of agency equipment to transmit records electronically.
- One dollar (\$1.00) for the cost of a Compact Disk or thumb drive and the equipment usage to burn the records to the device.

Actual Costs: All costs incurred when utilizing outside copying facilities shall be paid by the customer at the actual costs incurred by the Port, including any required mailing media, shipping costs, and sales tax.

Non-standard letter envelopes, storage media, and mailing requests will be charged at the actual cost incurred by the Port.

A statement of factors and the manner used to determine Port copy charges is available from the Public Records Officer. No sales tax will be charged for copies of public records processed in-house.

- 1) All copy fees are payable at the time the records are provided to the requestor. Payment is by cash, check or money order.
- 2) Copies of a large public records request may require a deposit from the requestor of 10% of the estimated cost of copying all the documents selected by the requestor. When a deposit is requested, copies of public records will not be fulfilled absent a required deposit.
- 3) The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of costs of copying an installment before providing that installment. If payment is not provided, the remainder of the installment will not be fulfilled until receipt of payment.

- 4) At the discretion of the Port, copying of large public records requests may be sent to outside vendors capable of large document production, at which time actual costs will apply.

STATUTORY EXEMPTIONS

The Washington Public Records Act identifies types of records that may be exempt or partially exempt from public disclosure. Records may additionally be exempt from disclosure if any other state statute or federal law exempts or prohibits disclosure.

To the extent required to prevent disclosure of statutorily protected information, or to protect information within a document that partially meets an exemption under federal or state law, such exempt information shall be redacted in a manner consistent with legal requirements prior to being made available under a public records request. In each case, the justification for the deletion shall be explained fully to the requestor in writing.

The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any “other statute” exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that may restrict the availability of some documents held by the Port for inspection and copying:

- RCW 5.60.060 – Privileged communications
- RCW 5.60.070 – Court-ordered mediation records
- RCW 26.44.010 – Privacy of reports on child abuse and neglect
- RCW 26.44.020(19) – Unfounded allegations of child abuse or neglect
- RCW 26.44.030 – Reports of child abuse/neglect
- RCW 26.44.125 – Right to review and amend abuse finding – confidentiality
- Chapter 40.14 RCW – Preservation and destruction of public records
- RCW 42.23.070(4) – Municipal officer disclosure of confidential information prohibited
- RCW 42.41.030(7) – Identity of local government whistleblower
- RCW 42.41.045 – Non-disclosure of protected information (whistleblower)
- RCW 46.52.080 – Traffic accident reports – confidentiality
- RCW 46.52.083 – Traffic accident reports – available to interested parties
- RCW 46.52.120 – Traffic crimes and infractions – confidential use by police and courts
- RCW 46.52.130(2) Abstract of driving record
- RCW 48.62.101 – Local government insurance transactions – access to information
- Chapter 70.02 RCW – Medical records – access and disclosure – entire chapter (HC providers)\
- RCW 70.48.100 – Jail records and booking photos
- RCW 74.34.095 – Abuse of vulnerable adults – confidentiality of investigations and reports
- 42 USC 290dd-2 – Confidentiality of Substance Abuse Records
- 42 USC 405(c)(2)(vii)(I) – Limits on Use and Disclosure of Social Security Numbers
- 42 CFR Part 2 (2.1 – 2.67) – Confidentiality of Alcohol and Drug Abuse Patient Records
- 45 CFR 160-164 – HIPAA Privacy Rule

This list is not all inclusive and there may be other exemptions.

In accordance with the Washington Public Records Act, law enforcement authorities may not request inspection or copying of public records held by the Port that would normally be exempted from public disclosure under federal or state law unless a subpoena, or court order authorizing the disclosure of specifically identified public records is presented.

The Port will not provide or sell public records for private gain or commercial purposes. A requestor will not be asked to disclose the purpose of the request with two exceptions:

- a) If the request is for a list of individuals, the requestor may be asked if he or she intends to use the records for a commercial purpose. The Port, by law, is not allowed to disclose public records lists for individuals where the intent is to use the information for commercial purposes.
- b) A requestor may be asked the purpose of the request only if such information will sufficiently allow a determination if another statute prohibits disclosure.

REVIEW OF DENIALS OF PUBLIC RECORDS

- (a) **Petition for internal administration review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.
- (b) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the Port official designated by the Port to conduct the review. That person will immediately consider the petition and either affirm or reverse the denial within two (2) business days following the Port's receipt of the petition, or within such other time as the Port and the requestor mutually agree to.

Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.17.340/42.56.550 at the conclusion of two (2) business days after the initial denial regardless of any internal administrative appeal.


STAFF PROCEDURE

The Executive Director shall develop subordinate procedures for the processing of public records requests to ensure compliance with the Washington Public Records Act, RCW 42.56, and this policy.

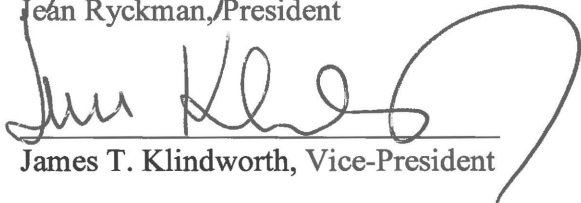
This Resolution supersedes all previous resolutions regarding copying of public records and Organizational Statement.

ADOPTED this 10th day of August 2017.

PORT OF PASCO COMMISSION



Jean Ryckman, President



James T. Klindworth, Vice-President