

# RESOLUTION NO. 1461

## A RESOLUTION OF THE PUBLIC RECORDS ACT POLICY FOR THE PORT OF PASCO

### 1 PUBLIC RECORDS

The purpose of these rules is to establish the procedures the Port of Pasco ("Port") will follow in order to provide full access to \*public records. These rules provide information to persons wishing to request access to public records of the Port, and establish processes for both requestors and Port staff that are designed to best assist members of the public in obtaining such access.

\*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.

### 2 PUBLIC RECORDS OFFICER

Any person wishing to request access to public records of the Port, or seeking assistance in making such a request should contact the public records officer of the Port:

Public Records Officer  
Port of Pasco  
Pasco, WA 99301  
Telephone: 509 547-3378  
Fax: 509 547-2547

The public records officer will oversee compliance with the act, but another Port staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the Port will provide assistance to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the Port.

### 3 AVAILABILITY OF PUBLIC RECORDS

(a) **Availability and Hours of Inspection.** Public records are available for inspection and copying during normal business hours of the Port, Monday through Friday, 7:00 a.m. 12:00 p.m. and 1:00 p.m. to 4:00 p.m., excluding legal holidays. Records must be inspected at the offices of the Port.

(b) **Records Index.** The Port finds that maintaining an index is unduly burdensome and would interfere with agency operations. The requirement would unduly burden or interfere with the Port's operations in the following ways:

Port has limited funds and clerical personnel. Creating an index with sufficient specificity to be useful to a person requesting records could not be accomplished with existing personnel.

(c) **Organization of Records.** The Port will maintain its records in a reasonably organized manner. The Port will take reasonable actions to protect records from damage and disorganization. A requestor shall not take the Port records from the Port offices without the permission of the public records officer or designee.

#### 4 **MAKING A REQUEST FOR PUBLIC RECORDS.**

- (a) Any person wishing to inspect or copy public records of the Port should make the request in writing on the Port's request form (Appendix A), or by letter, fax, or email addressed to the public records officer and including the following information:
- Name of requestor;
  - Address of requestor;
  - Other contact information, including telephone number and any e-mail address;
  - Identification of the public records adequate for the public records officer or designee to locate the records; and
  - The date and time of day of the request.
- (b) The Port may deny any request for "All" or Substantially All" records of the Port that do not relate to a particular topic. The Port may also deny automatically generated "bot" requests received from the same requestor within a 24-hour period.
- (c) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or provide a deposit. Pursuant to Section 8 standard photocopies will be provided at 15 cents per page for requests exceeding 25 pages.
- (d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

#### 5 **PROCESSING OF PUBLIC RECORDS REQUEST-GENERAL**

- (a) **Providing "fullest assistance."** The Port is charged by statute with adopting rules which provide for how it will "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.
- (b) **Acknowledging receipt of request.** Within five (5) business days of receipt of the request, the public records officer will do one or more of the following:
- (1) 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;
  - (2) 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 to the requestor;
  - (3) Acknowledge the request and provide a reasonable estimate of when records will be available; or
  - (4) If the request is unclear or does not sufficiently identify the requested records provide, to the greatest extent possible, a reasonable estimate of the time that will be needed to respond to the request, and request clarification from the requestor. 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
  - (5) Deny the request. The request can only be denied if it is not an actual request for public records, a record does not exist, or if the record in its entirety is legally exempt from disclosure.
- (c) **Consequences of failure to respond.** If the Port does not respond in writing within five (5) business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

- (d) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.
- (e) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the Port believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.
- (f) **Inspection of records.** Consistent with other demands, the Port shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the Port to copy.

The requestor must claim or review the assembled records within thirty (30) days of the Port's notification to him or her that the records are available for inspection or copying. The Port will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the Port to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Port may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

- (g) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.
- (h) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty (30) days, the requestor fails to inspect the entire set of records, or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.
- (i) **Completion of Inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the Port has completed a diligent search for the requested records and made any located nonexempt records available for inspection.
- (j) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the Port has closed the request.
- (k) **Later discovered documents.** If, after the Port has informed the requestor that it has provided all available records, the Port becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.
- (l) **Records Tracking.** The public records officer will maintain a log of all requests that will contain the following information: Identity of requestor, Date and text of request, Description of the records produced, Description of records redacted or withheld and reason, and Date of final disposition of request.

## 6 PROCESSING OF PUBLIC RECORDS REQUESTS-ELECTRONIC RECORDS

- (a) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.
- (b) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the Port and is generally commercially available, or in a format that is reasonably translatable from the format in which the Port keeps the record. Costs for providing electronic records are governed by section 8.

## 7 EXEMPTIONS

- (a) 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. There may be other exemptions.

- (b) The Port is prohibited by statute from disclosing lists of individuals for commercial purposes.

## 8 COSTS OF PROVIDING COPIES OF PUBLIC RECORDS.

- (a) **Paper copies.** There is no fee for locating public records or for inspecting public records. A requestor may obtain standard black and white photocopies for 15 cents per page for requests. For administrative convenience, the Port may waive the charge for a request involving 25 or fewer standard black and white photocopies.

Nonstandard copies include color copies, engineering drawings, and photographs. The Port shall charge its actual costs for nonstandard photocopies. For example, when the Port provides records in an electronic format by putting the records on a disk, it may charge its actual costs for the disk.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent (10%) of the estimated costs of copying all the records selected by the requestor. 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 the costs of copying an installment before providing that installment. The Port will not charge sales tax when it makes copies of public records.

- (b) **Electronic records.** The costs of scanning existing Port paper or other non-electronic records is:
- 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 CD Rom and the equipment usage to burn the CD.
- (c) **Combined Costs.** The charges in (b) of this subsection may be combined to the extent that more than one type of charge applies to copies produced in response to a particular request.
- (d) **Customized Service Charge.** In addition to the charge imposed for providing copies of public records, the Port may impose a customized service charge if the request requires the use of information technology expertise to prepare date compilations, or provide customized electronic access services when such compilations and customized access services are not used by the agency for other agency purposes. The customized service charge may reimburse the Port up to the actual cost of providing the records.
- The Port will notify the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate of cost of the charge. The notice will provide the requestor the opportunity to amend the initial request in order to avoid or reduce the cost of a customized service charge.
- (e) **Costs of mailing.** The Port may also charge actual costs of mailing, including the cost of the shipping container.
- (f) **Payment.** Payment may be made by cash, check, or money order to the Port.

## 9 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.

- (c) **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.

Resolution No. 1397, dated the 8<sup>th</sup> day of January 2015, is hereby rescinded, and this Resolution is to become effective as of the 10th day of August 2017.

PORT OF PASCO COMMISSION

  
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Jean Ryckman, President

  
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Jim Klindworth, Vice-President