

# **PORT OF GRAYS HARBOR PUBLIC RECORDS POLICY AND PROCEDURES**

## **I. INTRODUCTION**

### **A. POLICY**

It is the policy of the Port of Grays Harbor to make available to citizens any requested public records not exempted by law or otherwise protected under the Washington Public Records Act, Chapter 42.56 RCW.

### **B. GENERAL INQUIRIES.**

In general, citizen requests about Port District operations or policy can be answered by the Executive Director or other knowledgeable staff. Media inquiries should be directed to the Port's Public Affairs Manager and/or the Executive Director, or his designee.

The Public Records Act allows the public to inspect and request copies of documents. It does not require the Port to answer specific inquiries or to create documents in order to respond to a request.

### **C. PUBLIC RECORDS OFFICER.**

The Public Affairs Manager has been designated by the Executive Director as the Port's Public Records Officer. The Public Records Officer will oversee compliance with the Public Records Act, but may designate other Port staff members who may process requests for public records.

When reading and using this policy, references to the Public Records Officer should be interpreted to also include their designees.

## **II. WHAT IS A PUBLIC RECORD?**

### **A. PUBLIC RECORD.**

Washington's Public Records Act (Chapter 42.56 RCW), requires that members of the public be provided access to public records held by government agencies, including the Port of Grays Harbor, for inspection and, if desired, copying. The term "public record" is defined in the Revised Code of Washington as follows:

"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.” (RCW 42.56.010 (3)).

The term "writing" is defined in the statute as:

"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 picture, 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." (RCW 42.56.010 (4))

## **B. EXEMPT PUBLIC RECORDS.**

State law allows the Port to withhold information contained in a public record if the information is exempted by law. These exemptions are comprehensively listed in RCW 42.56.210 through RCW 42.56.480, subject to amendment by the state legislature. Most exemptions exist to protect the privacy interests and legitimate business interests of citizens. Without limitation, and subject to changes in the law, the exemptions that may have applicability to public records of the Port of Grays Harbor include the following:

1. Personal information in files maintained for employees, appointees, or elected officials of the Port to the extent that disclosure would violate their right to privacy.
2. Test questions, scoring keys, and other exam information used on licenses, employment or academics;
3. Generally, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three (3) years after the appraisal.
4. Valuable formulae, designs, drawings, and research data obtained by the Port within five (5) years of the request for disclosure when such disclosure would produce private gain and public loss.
5. Preliminary drafts, notes, recommendations and inter-agency memoranda in which opinions are expressed or policies formulated or recommended, except if that specific record is publicly cited in connection with a Port action.
6. The residential addresses and telephone numbers of employees or volunteers which are held in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

7. RCW 42.56.070(9) prohibits disclosure of lists of individuals (i.e. moorage lists) for commercial purposes. Non-commercial uses such as political mailing lists or non-profit charities may be given access.

8. Records, maps or other information identifying the location of archaeological sites in order to avoid looting or depredation of such sites.

9. Records assembled, prepared or maintained to prevent, mitigate or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or the general civilian population of the state and that manifest an extreme indifference to human life.

10. Failure of the Port to list in this policy an allowable exemption under any applicable law does not affect the efficacy of any exemption or its available use by the Port.

### **III. HOW TO ACCESS A PUBLIC RECORD**

#### **A. STANDARDIZED REQUEST FORM.**

The Port of Grays Harbor has developed a standardized form to assist members of the public who wish to make specific requests for public records.

#### **B. WHERE TO GO AND WHEN.**

Copies of the standardized public records request form will be made available at designated Port District offices including, the Marina Office, the Satsop Business Park Office and the Port's Main Office. The public records request form will also be made available on the Port's web site at [www.portofgraysharbor.com](http://www.portofgraysharbor.com). The form specifies what documents are being requested, and will be forwarded to the Public Records Officer, or designee, for management of the process through the appropriate departments to ensure that responsive deadlines are met. A master file of disclosure request forms shall be maintained in the Main Office in accordance with Washington State public record retention guidelines.

Occasionally, members of the public may submit a request via e-mail or by means other than the Port's Public Records Request Form. These requests should be treated as public records requests even though they are not on the standard form.

Copies of the Port of Grays Harbor's Public Records Resolution and this Policy and Procedures shall also be made available for inspection and copying at designated Port District offices, and on the Port's web site at [www.portofgraysharbor.com](http://www.portofgraysharbor.com).

Public records shall be available for inspection and copying during the customary office hours of the Port of Grays Harbor (Monday through Friday, excluding legal holidays, (8:00a.m.

through 5:00p.m.). Port staff and the requestor may make mutually agreeable arrangements for times of inspection and copying.

To the extent practical, the Port will store, maintain, and make its records available electronically. For those seeking responsive records in electronic format, the Port may provide access to public records by providing links to the web site containing an electronic copy of the record, providing records on disk, or transmitting the responsive record via e-mail. The Public Records Officer will work with the requestor to determine the most appropriate method for providing electronic copies of responsive records.

### **C. MAILED REQUESTS.**

Public records request forms may be mailed, faxed or e-mailed to members of the public upon request and at the expense of the requestor. The requestor may also download the public records request form from the Port's web site at [www.portofgraysharbor.com](http://www.portofgraysharbor.com).

## **IV. PORT OF GRAYS HARBOR PROCEDURES FOR RESPONDING TO REQUESTS FOR PUBLIC RECORDS**

### **A. PROMPT RESPONSE.**

Specific requests for public records will be forwarded to the Port Public Records Officer, or designee, at the Port's Main Office located at 111 S. Wooding Street, Aberdeen, Washington, the Port Public Records Officer will review the request and ask the appropriate department for the information. Once the public records request form has been submitted to the Port, the requested materials or a written response will be provided within five (5) working days, unless there are circumstances that require a longer period of time. If not able to fully respond within the five (5) working day period, the Public Records Officer shall provide to the requestor a reasonable estimate of time it will take to fully respond to the request. If the requestor has not received a response from the Port within five (5) working days from the date of filing a public records request with the Port, the requestor is encouraged to contact the public records officer immediately to ensure that the public records request was received by the Port.

### **B. PROCEDURE IF ADDITIONAL TIME IS NEEDED.**

Notification will be provided to the requestor in writing if more time is needed for the following reasons:

- a. clarifying the intent of the request; or
- b. more time is required to provide the material; or
- c. notifying third persons or agencies affected by the request; or
- d. determining whether any of the information requested is exempt and a denial shall be made to all or part of the request; or
- e. such other reason as may be authorized by law.

### **C. PROCEDURE IF CLARIFICATION IS NEEDED.**

If a request is not specific, or an identifiable record cannot be ascertained from the request, the Public Records Officer, or designee, may seek clarification from the requestor. If the requestor does not respond to the Port's request for clarification with 30 days of the Port's request, the Public Records Officer may consider the request abandoned, send a letter closing the response to the requestor, and re-file the records.

**D. PROCEDURE IF NOTIFYING THIRD PARTIES.**

The Port of Grays Harbor occasionally receives exempt records, such as proprietary or sensitive business information from third parties including prospective or current clients or tenants. It is the policy of the Port to attempt to provide advance notice to affected third parties of requests for information supplied to the Port which may be sensitive. The information provider (third party) may seek court protection under RCW 42.56.540 by demonstrating that such information would:

- (a) clearly not be in the public interest; and,
- (b) would substantially and irreparably damage any person; or
- (c) would substantially and irreparably damage vital government functions; or
- (d) such other reason as may be authorized by law.

The notice to the affected persons will include a copy of the request.

**E. 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 30 days of notice from the Port that records are available for inspection 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.

**F. PROCEDURE IF INFORMATION NEEDS TO BE DELETED.**

If it is determined that the document is exempt in part but can be made available after deletion of exempt portions, the request shall be granted; provided that such exempt portions shall first be deleted.

**G. NO DUTY TO CREATE RECORDS**

The Port is not obligated to create a new record to satisfy a records request; however, the Port may, in its discretion, create such a record responsive to the request.

**H. INTERNAL PORT PROCEDURE IF A REQUEST IS DENIED.**

If the Port determines to deny the request, in whole or in part, a written statement of the applicable exemptions and specific reasons for the denial shall be provided to the requestor. A

decision by the Port denying inspection shall be reviewed by the Port Attorney. Such review shall be deemed completed at the end of the second business day following the denial of inspection and shall constitute final action for the purposes of judicial review. The requestor shall be notified by mail of the decision to grant or deny the request.

## **V.**

### **COST FOR ACCESS TO PUBLIC RECORDS**

#### **A. NO COST FOR INSPECTION.**

No fee shall be charged for inspection of Port records.

#### **B. COSTS OF COPYING / SCANNING.**

The costs to be charged the requestor for public records is hereby established at the rate of \$0.15 per page. For electronic data, the cost to be charged the requestor for each computer disc (CD) containing electronic data is in the amount of \$0.75. The cost to scan paper documents into an electronic format is \$0.15 per page. The public shall be charged the actual costs for reproduction of records, such as blueprints or photographs, that are not capable of being copied using the Port's copying equipment. A deposit may be required depending upon the volume or number of copies requested.

#### **C. COSTS OF MAILED COPIES.**

Actual costs for postage and delivery can be included, as well as the cost of any envelopes, if a public record is mailed to a requestor.

#### **D. COPIES FOR PORT BUSINESS.**

The Port of Grays Harbor may provide copies free of charge for Port related business. Those persons requesting copies of documents pursuant to the Washington Civil Rules shall be treated the same as the public in general and will pay for copies at the rates quoted herein or as may be directed by the judicial body.

## **VI.**

### **APPEAL PROCESS IF RECORDS REQUEST IS DENIED**

#### **A. APPEAL OF DENIAL TO DISCLOSE**

The requestor may appeal the decision by the Port of Grays Harbor to withhold the information by filing a notice of appeal within 10 calendar days of the date of the decision to deny inspection of the requested public record. The appeal shall be filed and directed to the Public Records Committee, consisting of the Executive Director, or designee, a Port Commissioner, or designee, and Port Attorney, who will either affirm or reverse the denial within two (2) business days following the Port of Grays Harbor's receipt of the appeal or within such time as the Port and the requestor mutually agree.

## **VII. TRAINING REQUIREMENTS FOR COMMISSIONERS AND PUBLIC RECORDS OFFICER**

Every Port Commissioner and the Public Records Officer must complete the training requirements of the Open Act, which includes Washington Public Records Act, within ninety (90) days of assuming office or taking the oath of office. In addition, every Port Commissioner and Public Records Officer must complete the above training at intervals of no more than four (4) years as long as they remain in office.

## **VIII AMENDMENTS BY THE EXECUTIVE DIRECTOR**

By express authorization of the Port Commission in the Resolution approving this Policy, the Executive Director is authorized to amend the Policy and Procedures as necessary to remain in compliance with evolving law governing the handling of public records requests and to update the Policy and Procedures as facts may require. The Executive Director shall report all amendments to these Policy and Procedures to the Port Commission.

## **IX COMPLIANCE WITH FEDERAL AND STATE LAWS**

This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as “shall”, nothing in this policy is intended to impose mandatory duties on the Port beyond those imposed by state and federal law.

Policy adopted December 9, 2014 under Resolution No. 2878