



<b>PORT OF KINGSTON PUBLIC RECORDS POLICY</b>	
<b>RESOLUTION NO.</b>	<b>06-01-2014</b>
<b>REVISION DATE</b>	

1. **POLICY:** Pursuant to the Washington State Public Records Act, Chapter 42.56 RCW (PRA or Act), the Port of Kingston will make available for inspection and copying public records as defined by the PRA. The Port of Kingston is committed to public accountability and operates in conformance with the Washington State Public Records Act (Chapter 42.56 RCW). The Washington State Public Records Act has been revised by the Washington State Legislature and requires that each local agency shall prominently display and make available for inspection and copying substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency. This policy should be read as conforming to the PRA. This policy will govern compliance by the Port with respect to the provisions of the PRA. To the extent that this policy is in any way inconsistent with the referenced RCW, the RCW will be deemed to prevail.

All public records of the Port are deemed to be available for public inspection and copying pursuant to this policy except as otherwise provided by the PRA, or other statute, which exempts or prohibits disclosure of specific information or records.

Port of Kingston shall make all non-exempt records available for inspection and copying in accordance with the Washington State Public Records Act. To this end, Port of Kingston shall provide to the public the fullest assistance to ensure access to records containing information about the conduct of government at all levels, while also being mindful of individuals' privacy rights (as defined by RCW 42.56.050), desirability of the efficient administration of government and limited staff resources.

## 2. **DEFINITIONS**

1. "Exempt" means that a law allows or requires the withholding of a document, or a portion thereof, from public disclosure.
2. "Five-Day Letter" refers to the Port of Kingston's initial response to a person who has made a public records request. This letter is required by statute to be postmarked no later than five business days (business days are all days excluding Saturday, Sunday and legal holidays) after the receipt of the original request.
3. "Fullest Assistance" means a timely and thorough action and response to a public records request.
4. "Identifiable Public Record" refers to a record that contains a reasonable description enabling the Port of Kingston employee to locate the requested records.

5. "Public Record," as defined in the Washington State Public Records Act, means 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 the agency.
6. "Public Records Coordinators" (who may also be known as Public Disclosure Coordinators) are those Port of Kingston employees who may be responsible for collecting and processing for completion of a response to public records request.
7. "Public Records Officer" is the individual responsible for: establishing public records response protocols for the Port of Kingston; assisting with unusually large or complex public records requests; developing training protocols for all Port of Kingston Public Records Coordinators; and developing other guidance resources such as on-line public records request information.
8. "Public Records Request" is defined as a request to inspect or receive a copy of an identifiable public record.
9. "Public Records Requests on-line information" describes the web-based Port of Kingston internet application that provides general guidance on public records requests response procedures.
10. "Public Records Requests Tracking System" refers to the application that catalogs all public records requests and the status of their associated responses.
11. "Redaction" refers to the method of protecting from public viewing a portion of a record that is statutorily exempt from public disclosure.
12. "Shall" and "shall not" are legal terms to express mandatory and prohibited actions for Port of Kingston employees.
13. "Sunset Review" is an evaluation of the need for the continued existence of a program administration manual. It allows for a review assessment of the effectiveness and performance of the program manual. This review provides an opportunity to either
  - (1) Retain the program manual as is;
  - (2) Modify the program manual; or
  - (3) Allow the program manual to terminate.
14. "Will" is defined in this Policy to specify the operational conduct required of all Port of Kingston employees.

### **3. PUBLIC RECORDS OFFICER**

The Public Records Officer for the Port shall be the Port Assistant or designee. Processing requests for access to public records shall be in the responsibility of the Public Records Officer.

The Port of Kingston Public Records Officer shall serve as the point of contact for members of the public requesting disclosure of public records and oversee the agency's compliance with the public records disclosure requirements. The name and contact information of the Public Records Officer will be posted at the Port of Kingston in a highly visible location on the external internet home site for accessibility by

the public. (RCW 42.56.580).

Duties include the following:

1. Making requested records available for inspection and copying; or
2. Acknowledging receipt of the request within five business days and providing, in writing, a reasonable estimate of when the records will be available; or
3. If the request is unclear or does not sufficiently identify the requested records, sending a written request for clarification to the requestor; or
4. Denying the request in writing in accordance with Washington law when appropriate.

#### **4. INDEX OF PUBLIC RECORDS AVAILABLE**

The Port has available to all persons an:

1. Index of all resolutions passed by the Commission.
2. Other than the index of resolutions, the Commission has determined that it would be unduly burdensome to maintain an itemized index of all Port records, except as set forth herein, due to fiscal and personnel limitations. It is practically not feasible to maintain a central index of documents within the port's organizational structure. Even if such an index were feasible, the cost in terms of manpower, inefficiency, and delayed ability to respond to substantive issues would be prohibitive. The determination made in this section shall be considered to be a "formal order" as that term is used by RCW 42.56.070.

#### **5. POLICIES FOR PROCESSING FOR PUBLIC RECORDS**

In accordance with requirements of the Act, public records may be inspected or copied pursuant to the following procedures:

1. Questions about public disclosure that require legal interpretation beyond those addressed in this policy will be referred to the Public Records Officer or the Port of Kingston Legal Counsel Office.
2. Citizens interested in making a public records request should be encouraged to do so in writing by directing them to the Port of Kingston's electronic form which is available through the Port's website home page at [www.portofkingston.org](http://www.portofkingston.org). Public records requests will be accepted electronically via e-mail, fax, or in writing. The substance of verbal requests should be promptly confirmed in writing to the requestor by the Public Records Officer and the requestor shall confirm the accuracy of this via email, fax or in writing. The request shall be presented to the designated Public Records Officer. If the Public Records Officer is not available during customary hours, the completed form(s) shall be presented to the Business Manager or designee. All requests shall include the following information:
  - a. The name, contact address, and telephone number of the person requesting the record.
  - b. The time and day of the calendar date on which the request was made.

- c. The description of the request.
  - d. A specific description of the record requested.
  - e. The request shall identify if the request is for copies or for inspection of records.
3. Port of Kingston, when providing records for public inspection, shall make records available for inspection and copying during the customary office hours except when and to the extent that this would unreasonably disrupt the operations of the Port. The requestor may also make mutually agreed-upon arrangements for inspection and copying.
4. Port of Kingston will “protect public records from damage or disorganization” (RCW 42.56.100). Therefore, requestors shall not be allowed to take original records out of a Port of Kingston office. Extremely large copying requests may be completed by an outside copying vendor. The responsible office or department will manage the transfer of original records between the office and the vendor.
5. For records exempt from disclosure, the Port of Kingston Legal Counsel shall state the statutory exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of the record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer shall redact the exempt portions, provide the non-exempt portions, and indicate to the requestor why portions of the record are being redacted. All such documentation as described in this section may be specified in either a transmittal letter or a withholding index.
6. Consistent with other requests, Port of Kingston shall provide space to inspect public records, usually at the Port Administration Office.
7. After inspection is complete, the Public Records Officer or designee shall copy the requested records or arrange for copying except when and to the extent that this would unreasonably disrupt the operations of the Port.
8. There is no fee for inspecting public records. A requestor may obtain standard black and white copies for (\$.15) cents per page. The Port of Kingston may also charge the actual cost of mailing based on the current postage rate and will inform the requestor before the copying is performed.
9. Only Port staff persons will operate the Port’s copy machine, as public use of the copy machine would unreasonably disrupt the operations of the Port. At that time, the requestor can identify records to be copied. If the request for the copies is minimal, staff will make copies at that time except when and to the extent that this would unreasonably disrupt the operations of the Port. If the request is for more than 20 copies of individual records, the Port staff will make the copies within five business days, unless otherwise notified. The Public Records Officer will notify the requestor when the copies are ready to be picked up. If the Port, at its sole election, determines that the copies will be made by a copy service, the actual costs charged by a copy service plus actual costs of postage, transmission and handling will be charged to the requester. The charge shall be the amount necessary to reimburse that Port for its actual costs incident to such copying.
10. Port of Kingston cannot deny a request for being “overbroad”. However, when a request is for

a large number of records, the Public Records Officer shall provide access for inspection and copying in installments if that officer reasonably determines that it would be practical to provide responsive records in such a manner. If, within thirty days, the requestor fails to inspect the entire set of records in one or more installments, the Public Records Officer may stop searching for responsive records and close the request. The Public Records Officer shall promptly notify the requestor in writing when a request is closed.

11. If, after the Public Records Officer has informed the requestor that it has provided all available records and then becomes aware of responsive material that was not initially disclosed, he/she will promptly inform the requestor of the additional documents and provide them on an expedited basis.
12. Port of Kingston shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose of the request; unless it must be determined whether a request for a list of names is being requested for commercial purposes, or information is needed to determine whether another statute prohibits disclosure.
13. Port of Kingston department and offices are not obligated to create new records in order to respond to a public records request (WAC 44-14-04003).
14. Port of Kingston will only request clarification of an unclear request or a request for which responsive records cannot be identified through the Port of Kingston Public Records Officer. When the Port receives a large or unclear request, the Public Records Officer shall communicate with the requestor to clarify the request and explain the public records process. For large requests the Port may ask the requestor to prioritize the request so that he or she receives the most important records first. If the requestor finds the records he or she is seeking at the beginning of a request, the requestor should communicate with the Port that the requested records have been provided and he or she is canceling the remainder of the request.
15. An example of a request for information versus a request for records is distinguished by "How many employees used sick days in the year 2006?" versus "Provide all of the time sheets or other documents that show how many sick days were used by employees in the year 2006." Specifically, the Port of Kingston is not obligated to respond to requests for information e.g., routinely published brochures or informational handouts / annual reports. However, it is in the best interest of the Port's community outreach and communications and public relations efforts to do so, if collecting the information requires a manageable time investment. In addition, providing the information may prevent a subsequent public records request.

## **6. PROCEDURES FOR PROCESSING PUBLIC RECORDS REQUESTS**

1. Upon the Port's receipt of a request for public records, the request shall be directed to the Port's Public Records Officer.
2. The Public Records Officer will date stamp and log into the Public Records Requests Tracking System all public records requests so that the Port of Kingston has a record of the date of

receipt of the request, as well as what specific records are being requested.

3. The Public Records Officer shall respond to the request in writing within five (5) business days by making the records available for inspection and copying or by taking one of the other actions detailed in Section 3 of this policy.
4. In the event that the requested records contain information that may affect the rights of others and is arguably 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 shall 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. Before any such notification is sent to affected parties, the office or department shall coordinate with the Port of Kingston Legal Counsel.
5. If the Port of Kingston cannot provide the requestor with access to or copies of the requested records that are subject to disclosure within the appropriate estimated timeframe, the requestor shall be informed in writing of the additional time that it will take to produce the records. In addition, the Public Records Officer shall determine how much additional time to respond is appropriate only where it is reasonable in light of the circumstances, e.g., while gathering the requested records, it is determined that they are more voluminous or less readily accessible than originally believed.
6. If a denial or partial denial occurs, the Public Records Officer after consultation with Legal Counsel shall remove the records or partial records from the disclosable materials. All denials or partial denials shall be documented in writing to the requestor, either in a transmittal letter or in the form of a withholding index or Privilege log.
7. If the requestor protests the department decision, the Port of Kingston Public Records Officer and the Port of Kingston Legal Counsel will confer on the appropriate resolution.
8. Inspection shall occur at a time mutually agreed upon by the requestor and the Port of Kingston Public Records Officer. The Port of Kingston shall not limit times of inspection to times during which the requestor is unavailable. Requestors cannot dictate unusual times for inspection. The Port of Kingston is only obligated to offer inspection during customary office hours. Typically, the records are produced for inspection in the front office area. The inspection of records cannot create excessive interference with essential office functions. A Port of Kingston office shall have an employee observe the inspection or copying of records by the requestor to ensure that the records are not altered or destroyed.

## **7. EXEMPTIONS**

The Act allows for certain personnel and other records to be exempt from public disclosure. The Port reserves the right to determine that a public record requested is exempt from disclosure under provisions of the Act:

1. Pursuant to RCW 42.56.210, the Port reserves the right to redact identifying details when it makes available or publishes any public record, in cases when there is reason to believe that disclosure of such details would be an invasion of personnel privacy protected by RCW 42.56.050. The Public Records Officer will justify such deletion in writing.
2. All denials for requests for public records must be accompanied by a written statement describing the record, specifying the reason for denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.
3. Examples of exempt or records subject to redaction include but are not limited to the following:
  - a) Lists of individuals requested for commercial purposes, except as allowed under RCW 42.56.070.
  - b) Personal information in files maintained for employees, appointees, or elected officials to the extent that disclosure would violate their right to privacy. RCW 42.56.210.
  - c) Test questions, scoring keys, and other examination data used to administer a license or employment examination. RCW 42.56.250.
  - d) The contents of real estate appraisals, except as provided by RCW 8.26, made for and by the port 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 date of the appraisal. RCW 42.56.260.
  - e) Valuable formulas, designs, drawings, and research data obtained by the Port within five (5) years of the request for disclosure when disclosure would produce private gain and public loss. RCW 42.56.270.
  - f) Preliminary drafts, notes, recommendations, and intra-agency memorandum in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by the Port in connection with any Port action. RCW 42.56.280.
  - g) Records which are relevant to a controversy to which the Port is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts. RCW 42.56.290.
  - h) Records, maps or other information identifying the location of archeological sites in order the looting or depreciation of such sites. RCW 42.56.300.

- i) Financial and commercial information and records supplied by private persons pertaining to export services provided, and by persons pertaining to export projects. RCW 42.56.270.
- j) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services, or during application for economic development loans or program services provided by any local agency. RCW 42.56.270.
- k) Applications for public employment. Including names of applicants, resumes, and other related materials submitted with respect to applicant. RCW 42.56.250.
- l) The residential addresses and residential telephone numbers of employees or volunteers of the Port which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists to employees or volunteers. RCW 42.56.250.
- m) Financial and valuable trade information under RCW 51.36.120. RCW 42.56.270.
- n) Information that identifies a person who, while an agency employee: (i) seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not to be disclosed. RCW 42.56.250.
- o) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment. RCW 42.56.250.
- p) Business related information protected from public inspection and copying under RCW 15.86.110. RCW 42.56.380.
- q) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides. RCW 42.56.330.

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

## **8. REVIEW OF DENIALS OF PUBLIC REQUESTS:**

1. Denials of requests must be accompanied by a written statement of the specific reasons.



2. Any person who objects to the denial of request may petition for prompt review of such decision by tendering a written request for review.
3. Upon receiving a written request for review, the denial of the request shall promptly be reviewed by the Port Manager, or a designee, and the final decision of the Port manager (or designee) shall be made in writing and delivered to the requesting party by the end of the second business day following receipt of the written request as set forth in RCW 42.56.520. The final decision of the Port Manager (or designee) shall constitute final action of the Port for purposes of judicial review. The Port Manager shall advise the Commissioners of the Port Manager's (or designee's) decision with regard to any such request.

**9. ADDRESS WHERE REQUESTS ARE TO BE DIRECTED:**

All communications with the Port are to be addressed to:

Port of Kingston  
Attention: Public Records officer  
PO Box 559  
Kingston WA 98346  
Fax: (360) 297-2945  
Email: [christinec@portofkingston.org](mailto:christinec@portofkingston.org)

There is also an on-line form that can be completed at [www.portofkingston.org](http://www.portofkingston.org)