

RESOLUTION 831-24

A Resolution of the Commission of the Port of Port Townsend

**ESTABLISHING PUBLIC RECORDS ACT POLICY AND FEE SCHEDULE
(UPDATING AND SUPERCEDING RESOLUTION NO. 480-06)**

WHEREAS, pursuant to Chapter RCW 42.56, the Port of Port Townsend is required to establish and publish procedures governing the availability of public records maintained by the Port; and

WHEREAS, a Washington Administrative Code section sets forth the Attorney General Model Rules for the Public Records Act; and

WHEREAS, recent amendments to the Open Public Records Act are reflected in those Model Rules; and

WHEREAS, although the Model Rules are advisory only, they are intended to provide practical guidance on many issues that are not clear in the statutes, and the Attorney General's office has encouraged local and state agencies and units of government to adopt the Model Rules by resolution or ordinance; and

WHEREAS, the Port of Port Townsend desires to comply with these requirements so as to ensure the availability of public records to its citizens, mindful of individuals' privacy rights and the desirability of the efficient administration of government; and

WHEREAS, the purpose of adopting the attached Policy, based on the Model Rules, is to establish procedures that the Port of Port Townsend will follow in order to provide full access to public records.

NOW, THEREFORE BE IT HEREBY RESOLVED: by the Port Commission of the Port of Port Townsend, as follows:

Section 1. The Port of Port Townsend hereby adopts the above recitals as findings in support of this resolution.

Section 2. The attached Public Records Policy and Fee Schedule is hereby adopted as the rules governing the disclosure, inspection and copying of "public records" maintained by the Port of Port Townsend. Minor corrections or edits consistent with the purpose and intent of the Rules are permitted by the Port staff without Commission approval. However, any substantive change requires amendment by this Commission.

Section 3. The Port's Public Records Policy and Fee Schedule does not calculate actual costs for copying its records because to do so would be unduly burdensome for the following reason(s): the Port does not have the resources to conduct a study to determine actual copying costs for all its records; to conduct such a study would interfere with other essential agency functions. Therefore, in order to timely implement a fee schedule consistent with the Public Records Act, it is more cost-efficient, expeditious, and in the public interest for the Port to adopt the state legislature's approved fees and costs for the Port's records, as authorized in RCW 42.56.120.

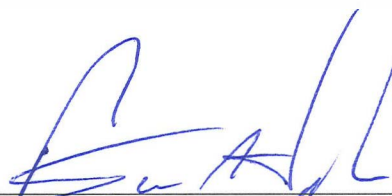
Section 4. This Policy shall be effective November 13, 2024 with the exception of Section 2 and the Fee Schedule which shall go into effect January 1, 2025; Resolution Nos. 284-98, 460-06, and 480-06 to the extent inconsistent with this Resolution, are hereby repealed.

ADOPTED this 13th day of November 2024, by the Commission of the Port of Port Townsend and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the Seal of the Commission duly affixed.

ATTEST:



Pamela A. Petranek, Secretary



Peter W. Hanke, President



Carol L. Hasse

Carol L. Hasse, Vice President

APPROVED AS TO FORM:

[Signature]

Port Attorney

Exhibit A

PORT OF PORT TOWNSEND

PUBLIC RECORDS POLICY AND FEE SCHEDULE

The Port of Port Townsend (the “Agency”) is required by RCW 42.56.100 to adopt and enforce reasonable rules and regulations, consistent with the intent of the Washington State Public Records Act (“PRA”), referenced in RCW Chapter 42.56 and the Model Rules of WAC 44-14., and to provide access to public records, protect public records from damage and disorganization, and to prevent excessive interference with other essential functions of the Agency. The Agency is also required to protect certain public records from disclosure subject to various legal exemptions.

This PRA Policy (“Policy”) establishes the procedures the Agency will follow to provide for the fullest assistance to requesters, including the timeliest possible action on requests, while protecting public records from damage and preventing “excessive interference with other essential agency functions.” RCW 42.56.100. The Agency is required to respond to public records requests pursuant to Chapter 42.56 RCW.

The Agency is not required to respond to questions, do research, or to give information that is not the subject of an identifiable public record.

Except where these guidelines are mandated by statute, the guidelines in this Policy are discretionary and advisory only and shall not impose any affirmative duty on the Agency. The Agency reserves the right to apply and interpret this Policy as it sees fit and to revise or change the Policy at any time.

Failure to comply with any provision of this Policy shall not result in any liability imposed upon the Agency other than that required in the PRA.

DEFINITIONS

1. “Public Record” includes 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 regardless of physical form or characteristics. RCW 42.56.010(2).

2. “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(3).

3. “Identifiable record” means an identifiable record is one in existence at the time the records request is made and that Agency staff can locate after an objectively reasonable search.

4. “Exempt record” includes all Agency records that are specifically exempted or prohibited from disclosure by state or federal law, either directly in RCW 42.56 or other statutes.

RESPONSIBILITY

Public Records Officer: the Agency's Public Records Officer is the Administrative Assistant. Other Agency personnel may also process public records requests, as needs require. The PRO shall complete and maintain his/her public records act training as required by RCW 42.56.152.

PROCEDURE

1. **HOW TO REQUEST RECORDS.** Any person requesting access to public records or seeking assistance in making such a request should contact the Public Records Officer at:

Public Records Officer
2701 Jefferson Street
P.O. Box 1180
Port Townsend, WA 98368
Phone: 360-385-0656
Fax: 360-385-3988
Email: info@portofpt.com
Hours: 8:00 am to 4:30 pm Monday through Friday

2. **REQUEST FORMAT.** While there is no specific required format for a public records request, a requester must provide the Agency with reasonable notice that the request being made is for public records. If a request is contained in a larger document unrelated to a public records request, the requester should point out the public records request by labeling the front page of the document as containing a public records request or otherwise calling the request to the attention of the Public Records Officer to facilitate timely response to the request.

The Agency encourages requesters to issue requests for public records in writing on the Agency's Standard Public Records Request Form, which is available from the Public Records Officer and from the Agency's website.

Requests may be submitted in person, orally, by mail, fax, or e-mail. Mail, e-mail, and faxes will be considered received on the date the form is stamped "received," not on the date sent. Any requests that come in during non-business hours are not "received" until the start of the next business day.

Requests should include the following information:

- A. The requester's name, mailing address, and contact phone number;
- B. The date of the request;
- C. The nature of the request, including a detailed description of the public record(s) adequate for the Agency to be able to locate the records;
- D. A statement regarding whether the records are being requested for a commercial purpose (RCW 42.56.070(9)); and
- E. Whether the requester desires electronic or hard copies, or to inspect the requested records in-person.

Requests for public records made orally must be made during normal business hours to the Public Records Officer or designee. If a request for public records is made orally to the appropriate individual, it will be confirmed by the Public Records Officer in writing within five (5) business days. If the requester does not receive such written confirmation, the requester should contact the Public Records Officer in writing to confirm that the request was received.

Please Note: A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records pursuant to RCW 42.56.080.

3. **RESPONSE TO REQUESTS.** The Agency will process requests in the most efficient manner as the Public Records Officer deems appropriate. The Public Records Officer may ask a requester to prioritize the records he or she is requesting so that the most important records may be provided first.

Within five (5) business days of receiving a request, the Agency will either (A) provide the record(s); (B) provide an internet address and link on the Agency's website to the specific records requested, except that if the requester notifies the Agency that he or she cannot access the records through the internet, then the Agency will provide copies of the record or allow the requester to view copies using an Agency computer; (C) acknowledge that the Agency has received the request and provide a reasonable estimate of the time the Agency will require to respond to the request; (D) acknowledge that the Agency has received the request and ask the requester to provide clarification for a request that is unclear, and provide, to the greatest extent possible, a reasonable estimate of the time the Agency will require to respond to the request if it is not clarified; or (E) deny the public record request.

Additional time to respond may be based on the need to clarify the intent of the request, to locate and assemble the records, to redact confidential or exempt information, to prepare an exemption log, to notify third parties or agencies affected by the request and provide such parties/agencies with the opportunity to seek a court order preventing disclosure where appropriate, and/or to consult with the Agency's legal counsel about whether the records are exempt from disclosure. The Public Records Officer should briefly explain the basis for the time estimated to respond. Should an extension of time be necessary to fulfill the request, the Public Records Officer will provide a revised estimate and explain the changed circumstances that make it necessary.

If the requester fails to respond to the Agency's request to clarify the request, and the entire request is unclear, the Agency will not respond to it. Otherwise, the Agency will respond only to those portions of the request that are clear.

If the Agency receives a request for public records identified in terms of "any and all documents related to" or similar language, and the requester is unable or unwilling to help narrow the scope of the documents being sought in order to expedite the Agency's response and/or reduce the volume of potentially responsive documents, the Public Records Officer is allowed to err on the side of producing more rather than fewer documents in response to such a broad, general request. The Agency personnel shall not be obligated to interpret such a broad, general request in order to decipher which specific documents may be of interest to the requester, and the PRA does not allow a requester to search through the Agency's files for records which cannot be identified or described to the Agency.

The Agency is not authorized to provide lists of individuals for commercial purposes. The Public Records Officer may also seek sufficient information to determine if another statute or court order may prohibit disclosure. If the requester fails to clarify an unclear request within fifteen (15) working days, the Agency will treat the request as having been withdrawn. RCW 42.56.520(3).

If the public record contains personal information that identifies an individual or organization other than the subject of the requested public record, the Agency may notify that individual or organization to allow the party to seek relief pursuant to RCW 42.56.540. Such relief may include a court injunction prohibiting release of the record because such examination would not be in the public interest and would substantially and irreparably damage any person or vital governmental function. The Agency may take

the above into account when providing an estimate of when the records will be available. Nothing in this Policy is intended to, nor does it, create any right to such notice.

When a request uses a phrase such as “all records relating to,” the Public Records Officer may interpret the request to be for records which directly and fairly address the topic. The Agency may respond to a request to provide access to a public record by providing the requester with a link to the Agency’s website containing an electronic copy of that record if it can be determined that the requester has internet access and the requester agrees that the request has been satisfied.

When the requester has found the records he or she is seeking, the requester should advise the Public Records Officer that the requested records have been provided and the remainder of the request may be cancelled.

4. **PROVIDING RECORDS IN INSTALLMENTS.** When the request is for a large number of records, the Agency may provide access for inspection and copying in partial installments if reasonably determined that it would be practical to provide the records in that way. If the requester does not contact the Public Records Officer within thirty (30) working days to arrange for the review of the first installment, the Agency may deem the request abandoned and may stop fulfilling the remainder of the request. The Agency may prioritize record requests received after commencing to fulfill the large request. RCW 42.56.120.

5. **ELECTRONIC RECORDS.** The process for requesting electronic public records is the same as the process for requesting paper public records. When a requester requests records in an electronic format, if technically feasible, 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 Agency and is generally commercially available; or will provide the records in a format that is reasonably translatable from the format in which the Agency keeps the record.

With the consent of the requester, the Agency may provide customized access under RCW 42.56.120 if the record is not reasonably locatable or not reasonably translatable into the format requested. The Agency may charge a fee consistent with RCW 43.56.120 for such customized access.

6. **DOCUMENTS AVAILABLE ON WEBSITE.** Some public records may be available on the Agency’s website. The Public Records Officer may direct the requester to the Agency’s website to fulfill a records request. For those who do not have access to the internet, a record viewing workstation can be provided at the Agency’s Administrative Office located at 2701 Jefferson Street, Port Townsend, WA.

7. **VIDEOS AND OTHER MULTIMEDIA.** Agency business may be recorded on video. All requests for video or other multimedia information or records shall state a date on which the event occurred as these digital files are not indexed as to the subject and are not word searchable.

8. **NO DUTY TO CREATE RECORDS.** This policy does not require the Agency to answer written questions, summarize data or information, create new public records, or provide information in a format that is different from original public records; however, the Agency may, in its discretion, create such a new record to fulfill the request where it may be easier for the Agency to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request. WAC 44-14-04003(6).

9. **NO DUTY TO PROVIDE INFORMATION.** This Policy does not require the Agency to respond to requests for information, research, opinions or advice. Requests for information, research, opinions, advice, or similar requests will not be responded to pursuant to this Policy.

10. **NO DUTY TO SUPPLEMENT RESPONSES.** The Agency is not obligated to hold current records requests open to respond to requests for records that may be created in the future. A new request must be made to obtain later-created public records.

11. **FEES.**

11.1. The Agency has determined that it would be unduly burdensome to calculate the actual costs for providing public records. Accordingly, the Agency adopts the statutory default fees pursuant to RCW 42.56.120 (as amended from time to time). The Agency will not impose copying charges for access to or downloading of records that are routinely posted on the Agency's website prior to receipt of a request unless the requester has specifically requested that the Agency provide copies of such records through other means.

11.2. If requested, the Agency will provide a summary of the applicable charges before any copies are made and the requester may revise the request to reduce the number of copies to be made and reduce the applicable charges.

11.3. In addition to the charge imposed for providing copies of public records, the Agency may include a customized service charge. A customized service charge is imposed if the Agency estimates that the request would require the use of information technology expertise to prepare data compilations or provide customized electronic access services when such compilations and customized access services are not used by the Agency for other Agency purposes.

11.3.1. The customized service charge may reimburse the Agency up to the actual cost of providing the services in this subsection.

11.3.2. The Agency will assess a customized service charge only when the Agency has notified the requester 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 cost of the charge. The notice will also provide the requester the opportunity to amend his or her request in order to avoid or reduce the cost of a customized service charge.

11.4. Waiver of Charges: copying costs may be waived at the discretion of the PRO if the total fee is less than Two Dollars (\$2.00).

11.5. Alternate Agreement: The Port may enter into any contract, memorandum of understanding, or other agreement with a requester that provides an alternative fee arrangement to the charges authorized in this section, or in response to a voluminous or frequently occurring request.

12. **DEPOSIT.** The Agency may require a deposit of up to ten percent (10%) of the estimated cost of copying records prior to copying any records for a requester. The Agency may also require payment of the remainder of the cost before providing all of the records, or the payment of the costs of copying an installment before providing that installment. RCW 42.56.120.

13. **PRESERVATION OF PUBLIC RECORDS.** No member of the public may remove a public record from the Agency's property without the Public Records Officer's written permission. No member of the public may remove a public record from a viewing area, disassemble, or alter, fold, mark, deface, tear, damage or destroy any public record. Public records maintained in a file jacket or binders, or in chronological order, may not be dismantled except for the purpose of copying, and then only by Agency staff. Copies of public records may be copied only on copying machines of the Agency unless other arrangements are made by the Public Records Officer. No food or drink will be permitted during the

inspection of public records. Access to file cabinets, shelves, vaults and other Agency storage areas is restricted to authorized Agency staff.

14. **ORGANIZATION OF PUBLIC RECORDS.** The Agency finds that maintaining an index as provided in RCW 42.56.070(3) for use by the public would be unduly burdensome and would interfere with Agency operations given the high volume, various locations, and types of public records received, generated and otherwise acquired by the Agency. RCW 42.56.070(4). Notwithstanding the foregoing, the Agency will maintain its records in a reasonably organized manner and take reasonable actions to protect records from damage and disorganization.

15. **CLOSING ABANDONED OR UNPAID REQUESTS.** If the requester withdraws the request, fails to fulfill his or her obligations to inspect the records within thirty (30) days of notice that the records are available for inspection, or fails to pay the deposit, installment payment or final payment for the requested copies, Agency personnel will close the request. Agency personnel will document closure of the request and the conditions that led to closure. RCW 42.56.120.

16. **RECORDS EXEMPT FROM PUBLIC DISCLOSURE.** The Agency is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state law or federal statute or regulation. The Agency is prohibited by statute from disclosing lists of individuals for commercial purposes. RCW 42.56.070(8). The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. RCW 42.56.230 through 42.56.480 contains a large number of exemptions from public inspection and copying. Other statutes outside the Public Records Act may prohibit and exempt disclosure of certain documents or information. RCW 42.56.070(1). The Agency's failure to list an exemption in this Policy shall not affect the effectiveness of the exemption.

17. **DENIAL OF REQUEST DUE TO EXEMPTION.** All denials of requests for public records will be accompanied by a written statement specifying the reason(s) for the 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. RCW 42.56.210(3).

18. **MECHANISM FOR REVIEW OF DENIAL.** Any person who objects to the denial of a public records request may petition in writing to the Public Records Officer for a reconsideration 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. The Public Records Officer shall perform a review of the denial as promptly as possible. Pursuant to state law, the review shall be deemed concluded at the end of the second business day following the denial to represent final action for the purposes of judicial review. RCW 42.56.530.

19. **RETENTION OF RECORDS.** The Agency is not required to retain all records it creates or uses. However, the Agency will follow RCW Chapter 40.14, Preservation and Destruction of Public Records, in the retention and destruction of public records. The Secretary of State, State Archives Committee approves a general retention schedule for local agency records that is common to most agencies. Individual agencies may seek approval from the Local Records Committee for retention schedules specific to their agency or that, due to their particular business needs, must be kept longer than provided in the general schedule. The retention schedule for local agencies is available at www.secstate.wa.gov/archives. Retention schedules for documents vary based on the content of the record. WAC 4414-03005.

The Agency shall not alter or destroy records when such records are responsive or related to a pending public record request or litigation hold.

20. **LOSS OF RIGHT TO INSPECT.** Inspection shall be denied and the records withdrawn by the Public Records Officer if the requester, when reviewing the records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the Agency.

21. **DISCLAIMER OF LIABILITY.** Neither the Agency nor any officer, employee, official or custodian shall be liable, or shall a cause of action exist, for any loss or damage based upon a release of public records if the person releasing the records acted in good faith in attempting to comply with this Policy. 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 Agency beyond those imposed by state and federal law.

FEE SCHEDULE

The below fee schedule is reflective of Section 11 of the Port’s Public Records Policy which adopts the statutory default costs under RCW 42.56.120 (as may be amended from time to time). The Port PRO may administratively update the below Fee Schedule Table if necessary to reflect statutory updates to RCW 42.56.120.

Description	Fee
Inspection of Records (in-person)	No Fee
Standard black and white copies	\$0.15/per page
Documents scanned into electronic format	@ \$0.10/per page
Files or attachments provided in electronic delivery	\$0.05/every 4 files
Electronic records transmission	\$0.10/per gigabyte
Digital storage/media devices	Actual cost of device
Postage	Actual cost of postage
Envelopes/packaging	Actual Cost of supplies
Customized service charges	Actual cost of service

A 10% deposit may be required prior to the duplication of records or customized services;

Copy charges above may be combined to the extent more than one type of charge applies to copies responsive to a particular request.