

**PORT OF SHELTON**  
**RESOLUTION 11-04**

*A resolution of the Commission of the Port of Shelton establishing rules for compliance with the Public Records Act; issuing a formal order exempting the Port of Shelton from maintaining an index under RCW 42.56.070(3) and (4); setting public records request copy fee at \$.15 per page; and appointing the Executive Assistant of the Port of Shelton as the Public Records Officer.*

**WHEREAS**, RCW Sections 42.56.040, 42.56.070 and 42.56.100 of the Public Records Act (“the Act”) collectively require that state and local agencies provide, publish and prominently display certain information, exemptions and rules governing disclosure of public records; and

**WHEREAS**, the Port of Shelton (“the Port”) is a local agency as defined in the Act and must therefore comply with its provisions; and

**WHEREAS**, the attached Public Records Act Rules (“the Rules”) fulfill one of these requirements and were developed using the Attorney General’s Office advisory Model Rules for disclosure of public records; and

**WHEREAS**, RCW 42.56.070(3) requires an agency to maintain an index of records therein described unless the local agency determines that it would be unduly burdensome to do so and in that event it must issue and publish a formal order specifying why it would be unduly burdensome; and

**WHEREAS**, RCW 42.56.120 allows for a per page copy charge of \$.15 when fulfilling Public Records Requests; and

**WHEREAS**, RCW 42.56.580 requires that each agency appoint and publicly identify a Public Records Officer and provide contact information for that Officer.

**NOW THEREFORE**, be it resolved by the Port of Shelton Commission as follows:

Section 1. The attached Rules are adopted as the rules the Port will follow in handling public records requests and the Port Executive Director is hereby authorized to amend the Rules as necessary to remain in compliance with evolving law governing the handling of public records requests and to update the Rules as facts may require.

Section 2. The Port is comprised of a marina, airport, and industrial park, serving over 15,000 citizens, which maintain separate databases and/or record keeping systems for the indexing of records and information. These writings may be maintained in several formats, including but not limited to: paper records, computer files, photographs, audio recordings, video recordings, etc. Because these records are diverse, complex and stored in multiple locations and in multiple computer systems, it is unduly burdensome to maintain a central index of these records. Therefore, the Commission finds that maintaining the index required by RCW 42.56.070(3) would be unduly burdensome. For these reasons The Commission hereby formally orders that such an index does not have to be maintained as allowed under RCW 42.56.070(4) so long as all other records are available for public inspection and copying in conformity with applicable law.

Section 3. The Executive Assistant is appointed as the Port's Public Records Officer and the contact information is provided in the attached Rules.

Section 4. The Executive Assistant is directed to post and maintain the Rules on the Port's website and otherwise post, prominently display or publish the Rules as required by law and make the Rules available for inspection and copying at the Port's central office.

Section 5. The Port is hereby authorized to charge \$.15 per copy when fulfilling a Public Records Act Request.

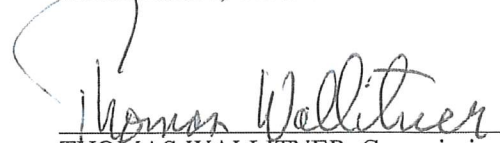
ADOPTED by the Port of Shelton Commission at a Regular Meeting thereof held this \_\_\_\_\_ day of July, 2011.

PORT OF SHELTON  
BOARD OF COMMISSIONERS

By:

  
\_\_\_\_\_  
JAY HUPP, Commissioner

\_\_\_\_\_  
JACK MILES, Commissioner

  
\_\_\_\_\_  
THOMAS WALLITNER, Commissioner



## Public Records Act Rules

Revised: 06/11

21 W. Sanderson Way, Shelton, WA 98584 Phone: 360.426.1151 Fax: 360.427.0231

### **POLICY:**

Pursuant to the Washington State Public Records Act, RCW 42.56 et. seq. (the Act), the Port of Shelton is required to make available for inspection and copying public documents as defined by the Act. The following policy will govern the compliance of the Port with respect to the provisions of the Act. 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 Act, or other statute, which exempts or prohibits disclosure of specific information or records.

A 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 any state or local agency regardless of physical form or characteristics. A public record also includes photographs taken by Port of Shelton staff.

### **OFFICE HOURS:**

Public records shall be available for inspection and copying during the customary office hours of the Port. For the purposes of this policy, the customary hours shall be from 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

### **PUBLIC RECORDS OFFICER:**

The Public Records Officer for the Port shall be the Executive Assistant or designee.

The Public Records Officer shall be responsible for the following: processing requests for access to public records; the implementation of the Port's rules and regulations regarding the release of public records; coordinating with other Port staff in this regard; and generally ensuring compliance by staff with the public records disclosure requirements of the Act.

### **INDEX OF PUBLIC RECORDS UNAVAILABLE:**

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. This determination was made in Port of Shelton Resolution 11-04.

## **REQUEST FOR PUBLIC RECORDS:**

In accordance with requirements of the Act, public records may be inspected and/or copies of such records may be obtained by members of the public, upon compliance with the following procedures:

All requests for records should be made in writing. Completing a "Public Records Act Request" form, which shall be available at the Port administrative office and on the Port's website, is a prerequisite for requesting records.

The request shall be presented to the designated Public Records Officer or his or her designee should the Public Records Officer not be present during normal business hours.

## **COPYING:**

No fee shall be charged for the location and inspection of public records by Port staff. The Port shall charge a fee for providing copies of public records at a rate of \$.15 per page. Should the Port choose to use an outside firm to complete the necessary duplicates to satisfy your request, the requestor shall pay the actual expense charged by the outside firm.

There is no requirement under the Public Records Act that a fee must be charged for copying. Therefore, the Executive Director reserves the right to waive copying charges at the Executive Director's discretion.

## **RESPONSES:**

Responses by the Port to requests will be made promptly within five business days from the time a fully completed request is submitted to the Public Records Officer.

If the Port is not able to fully respond within the five business day period, the Public Records Officer or the Port's attorney must provide a reasonable estimate of the time it will take to fully respond to the request. Additional time may be needed to clarify the scope of the request, locate and assemble the records, redact confidential information, prepare a withholding index, notify third party persons or agencies affected by the request, and/or consult with the Port's attorney 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 circumstance that make it necessary.

## **INSPECTION OF RECORDS:**

If a requestor requests to inspect records, the Public Records Officer will identify a date and time when the records will be available for viewing at the Port offices. At that time, the requestor can identify records to be copied. If the request for copies is minimal, staff may make the copies at that time. If the request is for more than 20 copies of individual records, the Port staff will make the copies within 3-5 business days, unless otherwise notified. The Public Records Officer will notify the requestor when the copies are ready to be picked up and what the total copy charge will be.

## **PROTECTION OF PUBLIC RECORDS:**

No records shall be removed from the Port office except by written permission of the Public Records Officer to whom the request was made under such conditions as are required to protect the records from damage, loss or disorganization. No record may be marked, folded or damaged in any way, nor may any

record be removed from any file to which it is attached, nor may the records filing order be altered in any way. A member of the Port staff will supervise inspection of records.

**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 provision of the Act:

1. Pursuant to the Act, 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 personal privacy protected by RCW 42.56.210. 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 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. The Port will not give, sell or provide access to:

a) Lists of individuals requested for commercial purposes, except as allowed under RCW 42.56.070(9).

b) Personal information in files maintained for employees, appointees, or elected officials to the extent that disclosure would violate their right to privacy. RCW 42.56.230(1)(b).

c) Test questions, scoring keys, and other examination data used to administer a license or employment examination. RCW 42.56.250(1).

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 formulae, 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 2.56.270(1).

f) Preliminary drafts, notes, recommendations, and intra-agency memorandums 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 archaeological sites in order to avoid the looting or depredation of such sites. RCW 42.56.300.

i) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to RCW 43.163 and 53.31, and by persons pertaining to export projects pursuant to RCW 43.23.035. RCW 42.56.270(3).

j) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by RCW 43.163, 43.160, 43.330, and 43.168, or during application for economic development loans or program services provided by any local agency. RCW 42.56.270(4).

k) Applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to applicant. RCW 42.56.250(2).

l) The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency. RCW 42.56.250(3).

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 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.

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

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

1. Denials of requests must be accompanied by a written statement of the specific reasons and signed by the Public Records Officer.

2. Any person who objects to the denial of a request may petition for prompt review of such decision by tendering a written request for review to the Executive Director.

3. Upon receiving a written request for review, the denial of the request shall promptly be reviewed by the Executive Director, or a designee, and the final decision of the Executive Director (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 for review as set forth in RCW 42.56.520. The decision of the Executive Director (or designee) shall constitute final action of the Port for purposes of judicial review. The Executive Director shall advise the Commissioners of the Executive Director's decision with regard to any such request.

**CLARIFICATION OF REQUESTS:**

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.

**REFERING A REQUEST TO THE PORT'S ATTORNEY:**

Should the Public Records Officer have questions concerning whether a particular request should be fulfilled or denied, the Public Records Officer shall forward the request to the Port's attorney for review.

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

All Public Records Request communications with the Port are to be addressed to:

Port of Shelton  
Attention: Public Records Officer  
21 W. Sanderson Way  
Shelton, WA 98584  
Fax: 360.427.0231

**FORMS:**

The attached "Public Records Act Request" form is to be used for requests for access to public records at the Port of Shelton.