

CHAPTER 4

POLICY ON PUBLIC RECORDS REQUESTS

I. INTRODUCTION

A. Policy

It is the policy of the Port of Sunnyside 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 of Sunnyside operations or policy can be answered by the Executive Director or other knowledgeable staff. Media inquiries should be directed to 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 of Sunnyside to answer specific inquiries or to create documents in order to respond to a request.

C. Public Records Officer

The Administrative Assistant has been designated by the Executive Director as the Port of Sunnyside's Public Records Officer. The Public Records Officer shall 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 Sunnyside, 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 punches 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 42.56.470, 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 Sunnyside include the following:

1. Applications for public employment as well as the residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, and social security numbers of employees which are held in personnel records, employment rosters, or mailing lists of employees.

2. Personal information in files maintained for employees, appointees, or elected official of the Port to the extent that disclosure would violate their right to privacy.

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 formula, 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.

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6. Communications and legal advice between the Port and its legal counsel.

7. RCW 42.56.070(8) prohibits disclosure of lists of individuals for commercial purposes. Non-commercial uses such as political mailing lists or non-profit charities may be given access.

8. Information regarding both public and private infrastructure and security of computer and telecommunications networks, including passwords, access codes and programs, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.

9. GPS data that would indicate the location of the residence of any public employee or volunteer using the GPS recording device.

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

It is encouraged that the public records requests be made utilizing the Port of Sunnyside's public records request form. The standardized public records request form will be made available at the Port's Administrative Office and on the Port's website at www.portofsunnyside.com. The completed form specifies what documents are being requested and should be forwarded to the Public Records Officer whose contact information is provided below. The Port's Administrative Office is located at 2640 E. Edison Avenue #1, Sunnyside, Washington.

B. Public Records Officer (PRO)

The Public Records Officer will oversee compliance with the Public Records Act, but another Port of Sunnyside staff member may process the request. Therefore, these procedures will refer to the PRO "or designee". The PRO or designee and the Port of Sunnyside will provide the fullest assistance possible to requesters, 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 of Sunnyside. The PRO can be reached at:

Address: 2640 E. Edison Avenue #1, Sunnyside, Washington, 98944
Email: Lucia@portofsunnyside.com
Telephone: (509) 839-7678
Facsimile: (509) 839-7462

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C. Records Availability

Public records will be made available for inspection and copying during the customary office hours of the Port of Sunnyside (Monday through Friday, excluding legal holidays, 8:30 a.m. through 12:00 p.m. and 1:00 p.m. through 5:00 p.m.), subject to availability of staff and to ensure the protection of public records from damage, loss or disorganization. Records for inspection will be made available at the Port's Administrative Office.

IV. PROCEDURES FOR RESPONDING TO REQUESTS FOR PUBLIC RECORDS

A. Response

Requests for public records will be forwarded to the PRO in the Port's Administrative Office, who will review the request. Upon receipt of the public records request, either the request materials or a written response will be provided to the requester within five (5) business days. If the Port requires additional time to fulfill the public records request, the requester will be so notified and will be provided with a response date. The Port is not required to answer specific inquiries or to create documents in order to respond to a request.

1. Additional Time is Needed

The Port's response may include a statement that additional information is needed to clarify the intent of the request, more time is needed to locate and assemble the requested documents, to notify third persons or agencies affected by the request, or to determine whether any of the documents are exempt and/or a denial may be made to all or part of the request.

2. Procedure if Clarification is Needed

If a request is not specific, or an identifiable record cannot be ascertained from the request, the PRO may seek clarification from the requester while also providing an estimated response time. If clarification is not received, the records request may be denied, with the reason clearly stated in writing.

3. Procedure for Notifying Third Parties

The Port of Sunnyside occasionally receives exempt records, such as proprietary or sensitive business information from third parties, including prospective or current clients or tenants. There are circumstances in which the Port, within its discretion, will provide advanced notice to third parties affected by requests for records which may

contain sensitive information related to the third party. 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;
- B. Substantially and irreparably damage any person; or
- C. Substantially and irreparably damage vital government functions.

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

4. Providing Records in Installments

When the request is for a large number of records, the PRO or designee may provide access for inspection and copying in installments, if the PRO 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 PRO or designee may stop searching for the remaining records and close the request. The PRO will provide the requester with notice that the Port is closing the request.

5. Request Denial

If the Port determines it is denying 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 requester. Said decision should be reviewed by the Port attorney prior to the issuance of the denial to the requester. Such review shall constitute final action for the purposes of judicial review. The requester shall be notified of the decision to deny the request.

B. Appeal of Denial to Disclose

The requester may appeal a decision to the Port's Public Records Committee. The appeal must be filed within fourteen (14) business days of the date of notification of the denial. The Public Records Committee shall consist of the Port's Executive Director, a Commissioner, and a Port attorney. The Public Records Committee shall either affirm or reverse the denial within two (2) business days following the Port of Sunnyside's receipt of the appeal or within such other time as the Port and the requester mutually agree.

V. INSPECTION AND COPYING FEES

A. Inspection of Records

No fee will be charged for inspection of Port documents. The requester will be notified when the records are ready for inspection and the requester and the Port will set a mutually agreeable time for inspection. So as to protect Port documents from damage, loss or disorganization, a Port staff person will monitor the inspection of records. The Public

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Records Act allows the public to inspect and request copies of documents. Reports may be run on information databases if it would not be burdensome on the Port. However, the Port is not required to reformat or write code in order to create a program to retrieve and complete specific information.

B. Copying of Records

The Port finds that it would be unduly burdensome to calculate the actual costs of paper copies, scanned copies, records provided by electronic delivery and/or transmission. Therefore, those costs to be charged to the requester for public records will be published by the Port pursuant to the Public Records Act Fee Schedule, which may be amended from time to time. This fee schedule will be made available at the Port's Administrative Office and on the Port's website at www.portofsunnyside.com.

The public will be charged the actual costs for reproduction of records if the public has requested documents and staff workload issues necessitate sending the documents out to a reliable copy source for copying, storing, electronically producing, or transmitting records in an electronic format. The public will be charged actual costs for nonstandard copies, such as blueprints or photographs, or for storing, electronically producing, or transmitting records in an electronic format that are not capable of being produced using the Port's equipment. "Actual cost" is the cost charged to the Port by an outside vendor for reproduction of records. A deposit of ten percent (10%) upfront of the estimated copying costs may be charged depending upon the volume or number of copies requested.