

**PORT OF NEWPORT  
RESOLUTION NO. 2019-12**

**A RESOLUTION ADOPTING A PUBLIC RECORDS POLICY**

**WHEREAS**, the Port of Newport Board of Commissioners By-laws states in Section 13 that the Port Commission shall adopt a Public Records resolution in accordance with ORS 192.440; and

**WHEREAS**, the Port of Newport adopted Resolution 2015-04 Adopting a Public Records Policy; and

**WHEREAS**, the Oregon Legislature enacted revisions to and renumbered the Oregon Revised Statutes as relates to public records requests; and

**WHEREAS**, the Special District Insurance Services (SDIS) Best Practices Program for 2019 recommends adopting a Public Records Policy, and

**WHEREAS**, the Port of Newport wishes to update the policy to comply with current law and law as may be modified by the Oregon Legislature from time to time, and revise the format; and

**WHEREAS**, the State Attorney General suggests that public bodies establish protective measures to maintain the integrity of public records or to prevent interference with the duties of the records custodians, and

**WHEREAS**, the State Attorney General recommends there be a process in which the public has opportunity to comment on these measures; NOW THEREFORE

**THE PORT OF NEWPORT BOARD OF COMMISSIONERS RESOLVES AS FOLLOWS:**

**Section 1.** The Port of Newport Public Records Policy, attached hereto as Exhibit A, is hereby adopted by reference.

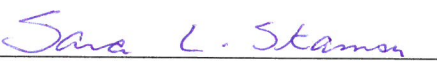
**Section 2.** The Policy and Procedures may be modified by Resolution, or may be modified administratively to follow best practices, for example to update items to incorporate new laws and rules, or to meet OAMR and other professional standards.

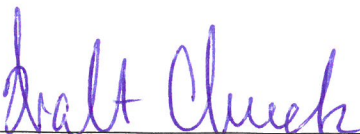
**Section 3.** Staff is directed to codify this policy according to past administrative practices.

**Section 4. Repealer.** All previous Public Records Policies are hereby repealed.

**APPROVED AND ADOPTED BY THE BOARD OF COMMISSIONERS** this 27th day of August, 2019.

ATTEST:

  
\_\_\_\_\_  
Sara Skamser, President

  
\_\_\_\_\_  
Walter Chuck, Secretary/Treasurer



# Public Records Policy

*Adopted by Resolution 2019-12  
8/27/2019*

# PORT OF NEWPORT PUBLIC RECORDS POLICY

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## Chapter 1. General Provisions

**1.1 Title.** This Policy and any amendments hereto shall be called, collectively, the Port of Newport Public Records Policy.

**1.2 Definitions.** As used in this Policy, the following terms are defined as follows by **ORS 192.311**.

- (a) “Business day” means a day other than Saturday, Sunday or a legal holiday and on which at least one paid employee of the public body that received the public records request is scheduled to and does report to work. In the case of a community college district, community college service district, public university, school district or education service district, “business day” does not include any day on which the central administration offices of the district or university are closed.
- (b) “Custodian” means a public body mandated, directly or indirectly, to create, maintain, care for or control a public record. “Custodian” does not include a public body that has custody of a public record as an agent of another public body that is the custodian unless the public record is not otherwise available.
- (c) “Person” includes any natural person, corporation, partnership, firm, association or member or committee of the Legislative Assembly.
- (d) “Public body” includes every state officer, agency, department, division, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission, council, or agency thereof; and any other public agency of this state.
- (e) “Public record” includes any writing that contains information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.
- (f) “Public record” does not include any writing that does not relate to the conduct of the public’s business and that is contained on a privately owned computer.
- (g) “Routine Materials” are those items already regularly produced during the Port’s regular course of business.
- (h) “Writing” means handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings.

**1.3 Purpose and Scope.** The purpose of this policy is to provide reference to and identify procedures for complying with Oregon Public Records Law, ORS 192.311 – 192.478.

**1.4 Variances.** The General Manager shall have the discretion to vary or modify the strict application of the provisions of the policy in any case in which the strict application of said provisions would result in practical difficulties or unnecessary hardships.

- 1.5 Interpretation.** If any section or part of this policy is found to be inconsistent with any laws of the State of Oregon or of the United States, or any rule, regulation or standard established pursuant thereto, such section, or part thereof shall be interpreted in the manner most consistent with its original intent that is not inconsistent with any laws of the State of Oregon or the United States or any rules, regulations or standards established pursuant thereto. Nothing contained in this policy shall be construed as a limitation of any rights, privileges, or remedies previously existing under any applicable laws or as a limitation of the powers of the Port Commission or management.
- 1.6 Severability.** Should any portion or the application thereof to any person or property be found invalid for any reason, the validity of the remainder of these provisions or the application of such remainder to other persons or property shall not be affected.

## **Chapter 2. Public Records Requests**

### **2.1 Right to Inspect Public Records.**

- (a) ORS 192.314 gives every person the right to inspect any non-exempt public record held by a public body. Requests for such Port of Newport records must be made under the Oregon Public Records Law and in accordance with this policy.
- (b) The Port shall permit inspection and examination of its non-exempt public records during regular business hours in the Port's offices, or such other locations as the Port may reasonably designate from time to time.

### **2.2 Specificity of Request.**

- (a) In order to facilitate the public's access to records in the Port's possession, and to avoid unnecessary expenditure of staff time, persons requesting access to public records for inspection or copying shall submit that request in writing using the request form (Attachment A). The records officer shall have the authority to modify the form to more efficiently meet changes in state statute and best practices.
- (b) All requests for public records shall include the date, name, address email address, and signature of the person making the request.
- (c) The request form must contain the specific records requested, furnishing the dates, subject matter and such other details as necessary to enable Port personnel to readily locate the records sought.

## **Chapter 3. Response to Public Records Requests**

### **3.1 Initial Response.**

- (a) Within five (5) business days, the records officer or designee shall acknowledge all public records requests, according to ORS 192.324, either by fulfilling the request or responding:
  - (1) The Port is the custodian of the requested records; or

- (2) The Port is not the custodian of the requested records; or
  - (3) The Port is uncertain whether it is the custodian of the requested records.
- (b) As soon as reasonably practicable, but not later than ten (10) business days after the date by which a public body is required to acknowledge receipt of the request under ORS 192.324, the Port shall:
- (1) Complete its response to the public records request; or
  - (2) Provide a written statement that the Port is still processing the request, providing a reasonable estimate by which Port staff expects to complete its response based on the information currently available.
  - (3) The Port is not subject to this response timeframe if it is awaiting response from the requestor seeking clarification of an inquiry or if the requestor has not agreed to pay for the records, provided that the cost is \$25.00 or more. Other considerations that apply are:
    - Complicated requests
    - Large volume of requests
    - Requests involving documents not readily available, or if the necessary staff are unavailable to fulfill the request.

### **3.2 *Inspection of Records.***

- (a) If a request to review original records is made, the Port shall permit such a review provided that search fees are paid in advance in accordance with Chapter 4 of this policy. A representative of the Port shall be present at any time original records are reviewed, and the charges for standing by while records are reviewed shall be the same as the charges for searching or reviewing records.
- (b) Inspection of records will occur during regular Port business hours, by appointment. All records shall be inspected at Port facilities. A requestor may personally inspect the requested records, but the right to inspect records does not include the right to access file cabinets or other records storage areas, or the right to disassemble or change the order of records in files. Original records may not leave the custody of the Port.
- (c) If the Port maintains copyrighted material, the Port will permit the person making the request to inspect the copyrighted material, and may allow limited copying of such material if allowed under federal copyright law. The Port may require the requestor to obtain written consent from the copyright holder before allowing copying of these materials.
- (d) If any person attempts to alter, remove or destroy any Port record, the Port representative shall immediately terminate such person's review, and notify the attorney for the Port.

### **3.3 Copies of Records.**

- (a) Copies of non-exempt public records maintained in machine readable or electronic form shall be furnished, if available, in the form requested. If not available in the form requested, such records shall be made available in the form in which they are maintained.
- (b) Providing non-exempt public records is a governmental activity covered by the Americans with Disabilities Act (ADA). The Port will provide an opportunity for individuals with disabilities to request an alternate form.
- (c) A staff member or the Port attorney, depending on the complexity of the records, must review the requested documents to make certain the record does not contain any exempt information before releasing the public records. If a document does contain exempt information, a copy, in lieu of the original, may be provided for inspection with the exempt portion blanked out.

### **3.4 Closing of the Request.**

- (a) Response to the public records request is complete when:
  - (1) The Port provides access to or copies of all requested records within the possession or custody of the city that are not exempt from public disclosure, or explains where the records are already publicly available; or
  - (2) The Port asserts any exemptions from disclosure that the city believes apply to any requested records and identifies state or federal law that the city relied on in asserting the exemptions; or
  - (3) The Port complies with ORS 192.338 regarding separation of exempt and non-exempt public records; or
  - (4) The requester fails to pay the fee within 60 days of the date on which the Port informed the requester of the fee, or fails to pay the fee within 60 days of the date on which the public body informed the requester of the denial of the fee waiver; or
  - (5) The requester fails to respond within 60 days to a good faith request from the Port for information or clarification.

## **Chapter 4. Public Records Request Fees**

### **4.1 Fee Schedule.**

- (a) Fees for public records requests and Port labor are set annually through a Resolution Setting Rates, Fees & Charges which is updated through the annual budget process.
- (b) Copies of non-standard documents may be charged in accordance with the actual costs incurred by the Port.

- (c) Once receipt of a public records request has been acknowledged, staff will prepare a cost estimate reflecting the cost of Port staff time, the materials required to make the records available, and any consultation time as required. The cost estimate will include the costs for researching, summarizing, and compiling the information.
  - (1) If the estimated costs involved in fulfilling your request exceed \$25, the Port will advise you of the estimated costs and require your approval before beginning the request.
  - (2) The Port requires a deposit in the full amount of the estimated costs before expending additional Port resources on the request. If the actual costs of completing the request exceed the estimate, the Port will not release the records until the actual costs are paid in full. If the actual cost of responding to the request is less than the estimated cost, the balance of the requestor's deposit will be refunded.
  - (3) Full payment of the total amount of costs incurred is required before the public records are inspected or copies are released.
- (d) Additional Charges: if a request is of such magnitude and nature that compliance would disrupt the Port's normal operation, the Port may impose such additional charges as are necessary to reimburse the Port for its actual cost of producing the records.

#### **4.2 *Fee Waivers or Reduction.***

- (a) A person requesting a waiver or reduction of fees shall file a written request by completing the section on the Public Records Request form, which should identify the purpose for which the requestor intends to use the information, and whether they can demonstrate the ability to disseminate the information to the public. The General Manager will review the waiver request while also considering the requestor's ability to pay and any financial hardship on the Port that might arise from granting the waiver or reduction of fees.
- (b) The Port will respond to requests from the news media for routine materials by either providing copies or advising the information is available on the Port's website, free of charge. Any non-routine materials requested by the news media will be charged at the fees described above unless the fees are waived or reduced.
- (c) The Port will respond to requests for routine materials personal to the requestor by either providing copies or advising the information is available on the Port's website, free of charge. Any non-routine materials requested will be charged at the fees described above.
- (d) The Port will respond to requests for routine materials requested by any Port elected official or appointed advisory body member by either providing copies or advising the information is available on the Port's website, free of charge, if the request relates to information needed in the requestor's official capacity. Any other materials requested will be charged at the fees described above.



**Attention: Custodian of Records**

600 SE Bay Boulevard Newport, OR 97365  
 541-265-7758 / 541-265-4235 Fax  
 khewitt@portofnewport.com

**PUBLIC RECORDS REQUEST FORM\***

\*The Port will not recognize/accept any other means of public records request pursuant to the Port of Newport Public Records Policy.

**Requester Information (Please print clearly):**

Name:	Request Date:
Mailing Address:	
Daytime Phone:	Email Address:
	Fax Number:
Preferred method of contact: <input type="checkbox"/> Mail <input type="checkbox"/> Phone <input type="checkbox"/> Email	
Is this request related to a lawsuit in which the Port of Newport is a party, or a tort claims notice filed with the Port of Newport? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, claimant name and incident date:	

**Description of Records Requested:** (Describe in detail the type of document, date, author, title, etc. If you need more room, please attach additional sheet(s). Please indicate if you want to inspect the records or if you need certified copies of the records. If no indication is made, regular copies will be provided):

Copies may be furnished without charge or at a substantially reduced fee if the General Manager determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits and will be distributed to the public at large, not an individual or group.

Does this request primarily benefit the general public?  Yes  No If yes, please describe the particular or specific public benefit below:

Preferred method of receiving the described records:  Mail  Email  Fax

**Note: Additional charges may be assessed (e.g. postage or staff time for faxing material). Fees are reviewed annually.**

The Port will respond to your request as soon as practicable and without unreasonable delay.

- If the estimated costs involved in fulfilling your request exceed \$25, the Port will advise you of the estimated costs and require your approval before beginning the request.
- The Port requires a deposit in the full amount of the estimated costs before expending additional resources on the request.
- If the actual costs of completing the request exceeds the estimate, the Port will not release the records until the actual costs are paid in full. If the actual costs of responding to the request is less than the estimated cost, the balance of the requestor's deposit will be refunded.

I HAVE READ AND AGREE TO COMPLY WITH THE ABOVE CONDITIONS, and further agree to pay the costs associated with fulfilling this Public Records Request according to the conditions as set forth above. These costs may include the cost of searching for records, reviewing records to redact exempt material, supervising the inspection of records, copying records, certifying records and mailing records. I agree to pay a maximum of \$25 without further approval.

**Signature of Requestor:**

**Date:** \_\_\_\_\_

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