

## RESOLUTION NO. 17-871

**A RESOLUTION of the Port of Ilwaco, a municipal corporation, located in Ilwaco, Washington, to ensure compliance with and setting the policy for implementing the law of the State of Washington with regard to the Public Records Act and disclosure thereof.**

**WHEREAS**, the Port of Ilwaco adopted Resolution No. 350-91 on June 10, 1991, establishing a public records policy as required by RCW 42.17.250 et. seq.; and

**WHEREAS**, the Washington legislature subsequently adopted the Public Records Act (the Act) under RCW 42.56 et. seq. and, therefore, Resolution No. 350-91 should be updated and replaced in its entirety to comply with the new statutory provisions; and

**WHEREAS**, pursuant to the Act, the Port of Ilwaco, is required to make available for inspection and copying, public documents as defined by the Act. The Port of Ilwaco's Public Records Policy, Exhibit A of this resolution, will govern the compliance of the Port in respect to the provisions of the Act. To the extent that this policy is in any way inconsistent with the reference RCW, the RCW will be deemed to prevail; and

**WHEREAS**, under RCW 42.56.100, the Port of Ilwaco can adopt and enforce reasonable rules to avoid excessive interference with the essential functions of the Port and establish the process for responding to public records requests; and

**WHEREAS**, the Port of Ilwaco has determined that it is necessary to adopt rules allocating the resources that the Port can currently devote to processing Public Records Requests so as to not interfere excessively with the Port's essential functions or funds available to pay for essential services;

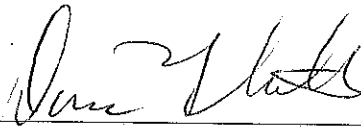
### **NOW, THEREFORE,**

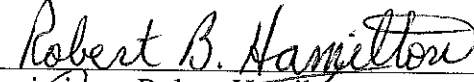
**BE IT RESOLVED** by the Port Commission of the Port of Ilwaco, Washington, that the Port hereby replaces Resolution No. 350-91 in its entirety and hereby adopts Exhibit A as the Public Records Policy for the Port of Ilwaco; and

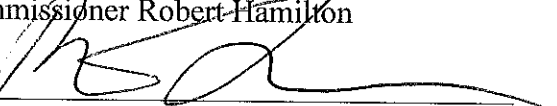
**BE IT FURTHER RESOLVED**, the Port will continue to process Public Records Requests in accordance with the Public Records Act (RCW 42.56), the Model Rules (WAC 44-14), and case law.

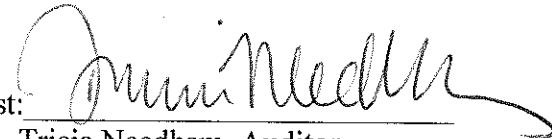
**ADOPTED** by the Port Commission of the Port of Ilwaco and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof.

DATED this 6<sup>th</sup> day of February, 2017.

By:   
Chairman Dave Nichols

By:   
Commissioner Robert Hamilton

By:   
Commissioner Al (Butch) Smith

Attest:   
Tricia Needham, Auditor

**PORT OF ILWACO  
PUBLIC RECORDS POLICY  
EXHIBIT A**

**1. AUTHORITY AND PURPOSE**

This policy establishes the procedures Port of Ilwaco will follow in order to provide access to its records. This policy provides information to persons requesting access to Port of Ilwaco's records and establishes request processes for both requestors and Port of Ilwaco staff.

The purposes of this policy are: (1) to describe Port of Ilwaco's organization and (2) to ensure that Port of Ilwaco acts in a manner consistent with the procedures of the Public Records Act ("PRA"), Chapter 42.56, RCW. 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 Port of Ilwaco. Port of Ilwaco reserves the right to apply and interpret this policy within its sole discretion and to revise or change the policy at any time.

This policy shall be available at Port of Ilwaco's main office, located at 165 Howerton Way, Ilwaco, Washington 98624 and posted on Port of Ilwaco's website at [www.portofilwaco.com](http://www.portofilwaco.com).

**2. DESCRIPTION OF ORGANIZATION**

Port of Ilwaco is a municipal corporation organized and created pursuant to Title 53, RCW of the State of Washington for the purpose of acquisition, construction, maintenance, operation, development and regulation within the port district of harbor improvements. The Port of Ilwaco is a special purpose local government that serves the citizens of Pacific County. The Port of Ilwaco is governed by a Commission composed of three publicly elected commissioners.

**3. PUBLIC RECORDS OFFICER**

The Public Records Officer shall be the Port Manager or designee.

The Public Records Officer shall oversee Port of Ilwaco's compliance with the PRA and this policy. The Public Records Officer may delegate the responsibilities of processing requests to other staff. Accordingly, any reference in this Policy to the "Public Records Officer" means the Public Records Officer or applicable designee.

The Public Records Officer shall provide full assistance to requestors, ensure that Port of Ilwaco's records are protected from damage, disorganization, and improper disclosure, and prevent the fulfillment of any PRA request from causing excessive interference with Port of Ilwaco's essential functions.

**4. AVAILABILITY OF PUBLIC RECORDS**

Port of Ilwaco records are available for inspection and copying during Port of Ilwaco's customary business hours, which are Monday through Friday from 8:00 a.m. to 12:30 p.m. and

1:00 p.m. to 4:30 p.m., excluding legal holidays. Public records must be inspected at Port of Ilwaco's main office, 165 Howerton Way, Ilwaco, Washington, 98624, unless the requestor pays for copies as provided in this policy and in Chapter 42.56 RCW. Many commonly requested Port of Ilwaco documents are available on our website at [www.portofilwaco.com](http://www.portofilwaco.com).

## **5. MAKING A REQUEST FOR PUBLIC RECORDS**

Requestors, or those seeking assistance in making a request for Port of Ilwaco records, are directed to contact:

Port of Ilwaco  
Attn: Public Records Officer  
P.O. Box 307  
Ilwaco, WA 98624

Public records information is also available at Port of Ilwaco website: [www.portofilwaco.com](http://www.portofilwaco.com)

Port of Ilwaco directs all persons requesting Port of Ilwaco's records to make their requests in writing on Port of Ilwaco's request form to the Public Records Officer. The form is available for use by requestors at the office of the Public Records Officer and on-line at: [www.portofilwaco.com](http://www.portofilwaco.com). In order to aid timely disclosure, requests should include the following information:

- a. The name and address of the requestor
- b. The date of the request
- c. A detailed description of the record being requested
- d. Whether the requestor wants copies, or wants to inspect the requested records
- e. If copies are requested, the address where copies should be mailed
- f. A statement regarding whether the records requested are for commercial purposes
- g. The signature of the requestor

A requestor must provide the port 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 requestor should point out the public records request by labeling the front page of the documents as containing a public records request or otherwise calling the request to the attention of the Public Records Officer to facilitate a timely response to the request.

The Public Records Officer shall confirm in writing (e-mail allowed) all oral requests made in person or by telephone, indicating receipt of the information and the substance of the request.

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

### **6.1 Providing "fullest assistance"**

These rules and any related policies or procedures identify how the Port will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions of the agency, provide the fullest assistance to requestors and

provide timely possible action on public records requests. All assistance necessary to help requestors locate particular responsive records shall be provided by the Public Records Officer, provided that the giving of such assistance does not unreasonably disrupt the daily operations of the Port administration or other duties of any assisting employee(s) in other Port departments. For all Port staff, including the Public Records Officer, producing records in response to records requests is a responsibility assigned in addition to their primary assigned duties and functions. The Public Records Officer is also charged with management of all operations of the Port, including airport, marina and boatyard functions. The time allocated by the Port staff, including the Public Records Officer, to public records request will be restricted to 25 hours per month.

## **6.2 Order for Processing Requests**

The Public Records Officer will process requests in the order that allows the most requests to be processed in the most efficient manner.

## **6.3 Response to Public Records Request**

Within five business days of receipt of the request, the Public Records Officer shall do one or more of the following:

- a. Notify the requestor in writing that the documents are available;
- b. Send copies to the requestor upon receipt or waiver of copying fees, with a letter acknowledging or closing the request as appropriate;
- c. Send an acknowledgment letter and provide a reasonable estimate of the time necessary for Port of Ilwaco to respond to the request;
- d. If the request is unclear or does not sufficiently identify the requested records, send a letter requesting clarification from the requestor; or
- e. Send a letter denying the request, including an exemption log if responsive exempt records exist.

Port of Ilwaco reserves the right to direct requestors to the Port of Ilwaco website for commonly requested documents. The Public Records Officer shall assist any requestor who cannot easily access the internet.

## **6.4 Reasons for Additional Time to Respond**

Port of Ilwaco may require additional time to respond to a request based on the need to do any of the following:

- a. Clarify what documents are being sought in the request;
- b. Locate and assemble the information requested;
- c. Use the requested record in Port of Ilwaco's normal course of business;
- d. Notify third persons or agencies affected by the request; or
- e. Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

This list is not exhaustive, and Port of Ilwaco reserves the right to require additional time as permitted by the PRA or other applicable federal or state law.

## **6.5 Unclear Requests**

In acknowledging receipt of a request that is unclear or ambiguous, Port of Ilwaco may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request within 15 days, Port of Ilwaco may deem the request abandoned and need not respond to it.

## **6.6 Notice to Third Parties**

In the event that the requested public records contain personal information that identifies an individual or organization or other information that may affect the rights of others, the Public Records Officer may provide notice to those individuals or organizations or such others whose rights may be affected by disclosure. Port of Ilwaco may send this notice to the individual or organization if releasing the personal information could damage the individual or organization, or government operations, or is not in the best interest of the public. The notice to the affected person(s) shall include a copy of the public records request and state that Port of Ilwaco intends to release the record by a specified date unless the person obtains and delivers to Port of Ilwaco a court injunction pursuant to RCW 42.56.540 or other applicable law. Port of Ilwaco will release such public records by the specified date if no one objects or the contacted party does not respond by the specified date. This procedure shall not create any rights to third parties to such notice.

## **6.7 Public Records Exempt From Disclosure**

Some public records are exempt from disclosure, in whole or in part, based on the laws and regulations identified in Appendix A, or under other state or federal law. If Port of Ilwaco believes that a record is exempt from disclosure and should be withheld, the Public Records Officer shall provide an exemption log including the specific exemption and a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

Pursuant to the PRA, Port of Ilwaco reserves the right to seek to enjoin the examination of any specific record if Port of Ilwaco determines that the examination is clearly not in the public interest and will substantially and irreparably damage any person or will substantially and irreparably damage vital governmental functions.

## **6.8 Providing Electronic Public Records**

When public records are requested in an electronic format, the Public Records Officer shall provide the nonexempt public records, or portions of the public records that are reasonably locatable, in an electronic format that is used by Port of Ilwaco and is generally commercially available, or in a format that is reasonably translatable from the format that Port of Ilwaco keeps the public records. Port of Ilwaco will charge the actual cost for transferring and translating the format of electronic documents.

## **6.9 Customized Access to Databases**

With the consent of the requestor, Port of Ilwaco may provide customized access under RCW 43.105.355 if the record is not reasonably locatable or not reasonably translatable into the format requested. Port of Ilwaco may charge a fee consistent with RCW 43.105.355 for customized access.

## **6.10 Inspection of Public Records**

The requestor must claim or review the assembled public records within fifteen (15) days of Port of Ilwaco's notification to the requestor that the public records are available for inspection or copying. Port of Ilwaco shall notify the requestor in writing of this requirement and direct the requestor to contact Port of Ilwaco to make arrangements to claim or review the public records. If the requestor fails to claim or review the public records within the 15-day period or make other arrangements, Port of Ilwaco may consider the request abandoned unless the requestor seeks an additional amount of time to review the public records.

Port of Ilwaco shall deny and terminate a requestor's inspection and withdraw the requested public records if the Public Records Officer determines that a requestor, when reviewing the public records, acts in a manner that will damage or substantially disorganize the public records or interfere with other essential Port of Ilwaco functions.

## **6.11 Protection of Public Records**

In order to protect Port of Ilwaco's public records from damage or disorganization, which is required under the PRA, Port of Ilwaco shall use the following procedures and practices:

- a. No public records shall be removed from Port of Ilwaco's main office without the Public Records Officer's permission;
- b. Inspection of any public records shall be conducted in the presence of the Public Records Officer or designated staff;
- c. No record may be marked, defaced, torn, damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public;
- d. 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 Port of Ilwaco staff; and
- e. Public records may be copied only on Port of Ilwaco copying machines unless other arrangements are made by the Public Records Officer.

## **6.12 Large Requests - Providing Public Records in Installments**

When the request is for a large volume of public records, the Public Records Officer may elect to provide public records on an installment basis. In such cases, the Public Records Officer shall provide a reasonable estimate in the initial response as to when the first installment will be available and when further installments are anticipated. The Public Records Officer shall send additional written notice as installments become ready for inspection or copying. If a requestor does not contact the Public Records Officer within 15 days of any such notification to arrange for

the review of the first installment or any subsequent installment, Port of Ilwaco may deem the request abandoned and stop fulfilling the remainder of the request.

### **6.13 Completion of Inspection**

Once Port of Ilwaco provides all copies of requested public records to the requestor, the requestor has reviewed the requested public records, or 15 days have passed since a notice of availability was sent to the requestor and the requestor has failed to contact the Public Records Officer to arrange for the review of those public records or for payment for copies, the Public Records Officer shall mail (e-mail allowed) the requestor a "Closing Letter" informing the requestor that Port of Ilwaco has fully responded to the public records request. Upon receipt of the Closing Letter, the requestor should immediately inform the Public Records Officer if the requestor does not think Port of Ilwaco has fully complied, or needs additional time to review the public records. If the requestor does not respond within ten (10) business days after the Closing Letter was sent, Port of Ilwaco may treat the matter as closed.

### **6.14 Later Discovered Documents**

If, after Port of Ilwaco has informed the requestor that it has provided all available public records, Port of Ilwaco becomes aware of additional responsive documents existing at the time of the request, it shall promptly inform the requestor of the additional documents and provide them on an expedited basis.

### **6.15 No Duty to Create Public Records**

The Port is not obligated to create a new record to satisfy a public records request; however, the Port may, at its discretion, create such a new record to fulfill the request where it may be easier for the Port to create a record responsive to the request than to collect and make available voluminous public records that contain small pieces of information responsive to the request.

### **6.16 No Duty to Supplement Responses**

The Port is not obligated to hold current public records requests open to respond to requests for public records that may be created in the future. If a public record is created or comes into the possession of the Port after a request is received by the Port, it is not responsive to the request and will not be provided. A new request must be made to obtain later-created public records.

## **7. EXEMPTIONS**

The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of PRA exemptions and exemptions outside of the PRA that may restrict or prohibit the Port of Ilwaco's ability to disclose certain documents. Some of these exemptions are described in Appendix A.

Port of Ilwaco is prohibited by statute from disclosing lists of individuals for commercial purposes.



## 8. COSTS OF PROVIDING COPIES OF PUBLIC RECORDS

There is no fee for inspecting public records in person at Port of Ilwaco's main office. For public records requests requiring copies of documents, the requestor shall pay the appropriate reproduction and mailing costs listed below.

### 8.1 Fee Schedule

Black & White Copies (per side)	\$0.15 per page
Color Copies (8½ x 11)	\$0.19 per page
CD or DVD	\$1 per disc
Flash Drives and other Media	Actual Cost
Scans (converting a paper copy to electronic format used by Port, commercially available)	\$0.10 per page
Transferring and translating the format of electronic documents that are reasonably translatable	Actual Cost (staff time includes employees hourly rate plus benefits)
Outside Vendor (may be used due to volume, current workload of staff, unique nature of the request, or any other reason)	Actual Cost
Mailing	Actual cost of postage and mailing materials

Depending on the size or number of requested copies, document copying may be contracted to another provider, and the actual cost of the copies shall be the responsibility of the requestor.

For larger requests, Port of Ilwaco may require a deposit of up to ten percent of the estimated costs of copying all the public records. The Public Records Officer or designee may also require the payment of the remainder of the copying costs before providing all the public records, or the payment of the costs of copying an installment before providing that installment.

### 8.2 Payment

Payment may be made by cash, check, or money order to Port of Ilwaco.

### 8.3 Waiver of Copying Charges

The Public Records Officer has the discretion to waive copying charges for small requests, or for individuals or government agencies doing business with the Port if the Public Records Officer determines that this action is in the best interest of the Port.

## 9. PUBLIC RECORDS PRESERVATION

Port of Ilwaco shall maintain and preserve Port of Ilwaco public records in a manner consistent with state and federal laws affecting the maintenance and preservation of public records, including but not limited to the guidelines promulgated by the Secretary of State Division of Archives and Public Records Management.

Nothing in this policy prevents Port of Ilwaco from destroying information relating to employee misconduct or alleged misconduct in accordance with RCW 41.06.450. However, if a record request is made at a time when such record exists but is scheduled for destruction in the near future for any reason, the Public Records Officer shall retain possession of the record and may not destroy or erase the record until the request is resolved.

#### **10. PUBLIC RECORDS INDEX**

The Port of Ilwaco Commission finds that it would be unduly burdensome and would interfere with Port of Ilwaco operations to maintain an index of public records. *See* RCW 42.56.070(3) & (4). Port of Ilwaco will make available for public disclosure all indices which may at a future time be developed for Port of Ilwaco use.

#### **11. REVIEW OF PUBLIC RECORDS REQUEST DENIALS**

Any person who objects to the initial denial or partial denial of a public records request may petition in writing (e-mail allowed) to the Public Records Officer for a review of that decision. The petition must 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 promptly provide the petition and any other relevant information to Port of Ilwaco's Attorney. The Port Attorney or his or her designee will promptly consider the petition and either affirm or reverse the denial within two business days following Port of Ilwaco's receipt of the petition, or within such other time as Port of Ilwaco and the requestor mutually agree.

#### **12. DISCLAIMER OF LIABILITY**

Neither Port of Ilwaco nor any of its officers, employees, officials, or custodians shall be liable, nor shall cause of action exist, for any loss or damage based upon release of public records if the person releasing the public records acted in good faith in attempting to comply with this policy.

This policy is not intended to expand or restrict the rights of privacy or the rights to inspect and copy public records 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 Port of Ilwaco beyond those imposed by state and federal law.