

## **RESOLUTION NO. 17-76**

A RESOLUTION OF KITSAP TRANSIT BOARD OF COMMISSIONERS  
REESTABLISHING PUBLIC RECORDS ACT RULES OF PROCEDURE PURSUANT  
TO RCW 42.56 AND DECLARING THE CALCULATION OF ACTUAL COSTS  
UNDULY BURDENSOME

**WHEREAS**, the Revised Code of Washington Chapter 42.56 requires public agencies to publish rules of procedure to inform the public how access to public records will be accomplished; and

**WHEREAS**, Resolution No. 14-57 was adopted and established rules of procedure conforming with the state Public Records Act and current practices by Kitsap Transit; and

**WHEREAS**, the Washington State Legislature enacted ESHB 1594 and EHB 1595 revising portions of the Public Records Act including provisions for the training, tracking of public records requests and the production and copying of both paper and electronic records; and

**WHEREAS**, these changes require reestablishing and restating current procedures previously adopted in compliance with RCW 42.56; and

**WHEREAS**, RCW 42.56.120(b) provides that an agency need not calculate the actual costs in charges for providing public records if it has rules or regulations declaring the reasons doing so would be unduly burdensome; and

**WHEREAS**, based on historical data of records requests received the Public Records Officer deems establishing actual costs unduly burdensome when calculating the time and cost associated with salaries, time spent, equipment use, and supply consumption, creating additional work for the Public Records Officer and staff responsible for assisting with the production of records requests; and

**WHEREAS**, the rules of procedure provide the public full and timely access to information concerning the conduct of government, mindful of individuals; privacy and the desirability of efficient administration of our agency; and

**NOW, THEREFORE, BE IT RESOLVED** the Board of Commissioners hereby reestablishes the Public Records Act Rules of Procedure as incorporated herein as Exhibit A and acknowledges the importance of compliance by providing the public and agency staff the process and procedures for fulfilling requests for public records.

**ADOPTED** by the Board of Commissioners of Kitsap Transit at a regular meeting held on the 5th day of December, 2017.



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Robert Gelder, Vice Chairperson

ATTEST:



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Jill A. Boltz, MMC  
Clerk of the Board



## Public Records Act Rules

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The Public Records Act (The Act), RCW 42.56, requires public agencies to make identifiable, non-exempt public records available for inspection and copying upon request and to publish rules of procedure to inform the public how access to public records will be accomplished.

The purpose of these rules is to provide the public full and timely access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of efficient administration of our agency. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under The Act, Kitsap Transit will be guided by the provisions of The Act describing its purposes and interpretation. Failure to comply with any provision of these rules shall not result in any liability imposed upon the agency other than that required in The Act. These rules may be amended without notice at any time.

### Section 1. Definitions/Explanations

**a. Public record.** A writing, regardless of physical form, containing information relating to the conduct of government or the performance of any governmental or proprietary function, prepared, owned, used or retained by Kitsap Transit. Even if the agency does not possess a particular document, a document may be "used" by the agency if it was used in any decision making process.

**b. Writing.** Broadly defined, a writing means handwriting, typewriting, printing, photostating, photographing, and any other means of recording any form of communication, including, but not limited to, letters, words, pictures, sounds or symbols or their combinations; 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 data compilations from which information may be obtained or translated. An email is a writing.

**c. Identifiable record.** An identifiable record is one in existence at the time the records request is made and that Kitsap Transit staff can locate after an objectively reasonable search. An "identifiable record" is not a request for "information" in general. For example, asking "what policies" the agency has for handling discrimination complaints is merely a request for "information." On the other hand, a request to inspect or copy Kitsap Transit's policies and procedures for handling discrimination complaints would be a request for an "identifiable record."



**d. Exempt record.** All Kitsap Transit records are available for review by the public unless they are specifically exempted or prohibited from disclosure by state or federal law, either directly in RCW 42.56 or other statutes. For a list of exemptions other than those enumerated in RCW 42.56, please refer to Appendix C of Municipal Research Service Center's (MRSC) publication "Public Records Act for Washington Cities, Counties and Special Purpose Districts" available at [www.mrsc.org](http://www.mrsc.org).

**e. Counter document.** A frequently requested document retained by Kitsap Transit or within departments that is known to be public information and may be released without need to file a written public disclosure request.

**f. E-mail.** Electronic mail is an informational transfer system, which uses computers for sending and receiving messages. It is comprised of individual units of information divided into an "envelope" and the message contents. The envelope, or message header, contains the mailing address, routing instructions, transmission and receipt information, and other information the system needs to deliver the mail item correctly. Classification of emails as public records is dependent on the content of the message. Email messages are public records when they are created or received in the transaction of public business and retained as evidence of official actions. A record of the existence of an email is a public record regardless of the content of the email.

## **Section 2. Description of Kitsap Transit Services**

Kitsap Transit is a Public Transportation Benefit Area Authority (PTBAA) that provides a full range of traditional public transportation services. The Public Records Officer shall maintain descriptions of the agency's organization and the process through which the public may obtain information from Kitsap Transit. Kitsap Transit's administration building is located at 60 Washington Avenue, Suite 200, Bremerton, WA 98337. Kitsap Transit also has several field offices located throughout the County.

## **Section 3. Public Records Officer**

Any person wishing to request access to public records or seeking assistance in making a request should contact Kitsap Transit's Public Records Officer. The Clerk of the Board has been designated by the Board of Commissioners as Kitsap Transit's Public Records Officer for all agency records. The Public Records Officer will oversee compliance with the Public Records Act, but may designate other Kitsap Transit staff members as Records Coordinators, who may process requests for public records. The Public Records Officer or his or her designees will provide the fullest assistance to requestors, ensure that public records are protected from damage or disorganization, and prevent fulfillment of

public records requests from causing excessive interference with the essential functions of the agency. When using these Rules, references to the Public Records Officer should be interpreted to also include his or her designees.

**a. Requests for records:** Requests to inspect or copy any records maintained by Kitsap Transit, shall be made to the Public Records Officer at:

Public Records Officer  
Clerk of the Board  
Kitsap Transit  
60 Washington Avenue; Suite 200  
Bremerton, WA 98337

Telephone: 360-478-6230  
FAX: 360-377-7086  
E-mail: [jillb@kitsaptransit.com](mailto:jillb@kitsaptransit.com)

**b. Internet access to records.** Many records are also available on the Kitsap Transit website at: [www.kitsaptransit.com](http://www.kitsaptransit.com). Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

#### **Section 4. Availability of Public Records**

**a. Hours for inspection.** Public records are available for inspection and copying during the Kitsap Transit customary office hours: Monday through Friday, 8:00AM to 4:00PM, excluding legal holidays. Kitsap Transit staff and the requestor may make mutually agreeable arrangements for times of inspection and copying. However, Kitsap Transit shall have final say regarding hours for inspection.

**b. Place of inspection.** Records will be made available for inspection as determined by the Public Records Officer. Kitsap Transit staff and the requestor may make mutually agreeable arrangements for inspection if the particular records being sought are maintained at field offices of the agency. A requestor shall not take Kitsap Transit records from agency offices without the permission of the Public Records Officer.

**c. Electronic access to records.** A variety of records are available on the Kitsap Transit web site at: [www.kitsaptransit.com](http://www.kitsaptransit.com). To the extent practical, Kitsap Transit will store, maintain, and make its records available electronically. For those seeking responsive records in electronic format, the agency may provide access to public records by providing links to the web site containing an electronic copy of the record, provide records on disk, or transmit the responsive record via e-mail. The Public Records Officer will work with the requestor to determine the most appropriate method for providing electronic copies of responsive records. All electronic responses are subject to fees as established by these Rules and the fee schedule available at the Clerk of the Board's Public Records Requests webpage.

**d. Records index.** Resolution 14-55, adopted by Board of Commissioners on October 21, 2014, determined that maintaining a central index of Kitsap Transit records is unduly burdensome, costly, and would interfere with Kitsap Transit operations due to the number and complexity of records generated because of the wide range of Transit activities. The Clerk of the Board may, however, index and maintain general administrative records.

Other records that relate to the specific function or responsibility of a particular department shall be maintained in the offices of the particular department. The Public Records Officer will coordinate responses to public records requests with the departments, and responsive records shall be made available for public inspection and copying at Kitsap Transit in accordance with Chapter 42.56 RCW.

**e. Organization of records.** Kitsap Transit departments will maintain records in a reasonably organized manner and will take reasonable actions to protect records from damage and disorganization.

**f. Retention of records.** Kitsap Transit will retain its records in accordance with retention schedules available at [www.secstate.wa.gov](http://www.secstate.wa.gov). (Retention schedules vary based on the content of the record.) Public records may not be destroyed per a retention schedule if a public records request or actual or anticipated litigation is pending.

**g. Copies of agendas, resolutions and other published documents.** Copies of records (including minutes, agenda packets, resolutions, and published documents, such as the budget, and the annual report) can be reviewed at Kitsap Transit. A packet for each board meeting will be available at Kitsap Transit for audience information. Requests for duplicates of council or commission meeting recordings should be made two days in advance. The fee for such recordings shall be as provided in the costs schedule and a deposit may be charged. Information regarding the fee schedule is set out in Resolution No. 14-56.

**h. Agenda Sheets.** The Board of Commissioners meeting agenda sheet shall be available upon request and without charge after four p.m. on the Thursday preceding each meeting. If there is a request for an agenda for each meeting over a period, the requestor may opt to be added to an e-distribution list for board agendas.

## **Section 5. Making a Request for Public Records**

**a. Reasonable notice that the request is for public records.** There is no required format for a valid public records request. A requestor 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 requestor 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.

**b. Form.** Any person wishing to inspect or copy identifiable public records of Kitsap Transit should make the request in writing in one of the following ways:

- On the provided request form (available online at [www.kitsaptransit.com](http://www.kitsaptransit.com));
- By letter, fax, or e-mail addressed to the Public Records Officer.

The following information should be included in the request:

- Name and address of requestor;
- Other contact information, including telephone number and email address;
- Identification of the requested records adequate for the Public Records Officer to locate the records; and
- The date and time of day of the request.

**\*Requests for Information are not subject to the Public Records Act.**

**c. Prioritization of records.** The Public Records Officer may ask a requestor to prioritize the records he or she is requesting so that the most important records may be provided first. A requestor need not prioritize a request.

**d. Copies.** If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and arrange to make a deposit or pay for the copies, as further discussed in Section 9 below. The cost for production of records and charges for copying and producing electronic records shall be charged in accordance with Revised Code of Washington (RCW) 42.56.120.

**e. Oral Requests.** The Public Records Officer may accept requests for public records that contain the above information by telephone or in person. If an oral request is made, the Public Records Officer will confirm receipt of the information and the substance of the request in writing as well as the necessary contact information from the requestor so that Kitsap Transit can respond.

**f. Requests made directly to a Kitsap Transit departments.** Requests for public records other than identified "counter documents" that are made directly to departments shall be delivered to the Public Records Officer immediately upon receipt for coordinated processing and should include the information identified in Section 5(b).

**g. Purpose of request.** A requestor need not state the purpose of the request. However, in an effort to clarify or prioritize a request and provide responsive records, the Public Records Officer may inquire about the nature or scope of the request. If the request is for a list of individuals, the Public Records Officer may ask the requestor if he/she intends to use the records for a commercial purpose. Kitsap Transit 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 may prohibit disclosure.

**h. Overbroad requests.** Kitsap Transit may not deny a request for identifiable public records solely because the request is overbroad. However, the agency may seek clarification, ask the requestor to prioritize the request so that the most important records are provided first, and/or communicate with the requestor to limit the size and complexity of the request. The agency may also provide the responsive records in installments over time. When a request uses an inexact 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. When the requestor has found the records he or she is seeking, the requestor should advise the Public Records Officer that the requested records have been provided and the remainder of the request may be cancelled.

## **Section 6. Processing Public Records Requests**

**a. Providing "fullest assistance."** These Rules and related policies and procedures identify how Kitsap Transit will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions of the agency, provide fullest assistance to requestors, and provide the timeliest 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 Clerk of the Board or other duties of any assisting employee(s) in other Kitsap Transit departments.

**b. Order for processing requests.** The Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

**c. Acknowledging receipt and fulfilling requests.** Within five business days of receipt of the request, the Public Records Officer will do one or more of the following:

- (1) provide the record,



- (2) provide an internet address and link on the Kitsap Transit website to the specific records requested, except that if the requestor notifies the agency that he or she cannot access the records through the internet, then the agency must provide copies of the record or allow the requestor to view copies using an agency computer,
- (3) acknowledge receipt of the request and provide a reasonable estimate of the time Kitsap Transit will require to respond to the request, or
- (4) deny the request with a brief explanation of the basis for denial.

If the request is unclear or does not sufficiently identify the requested records, Kitsap Transit may request clarification from the requestor.

**d. Reasonable estimate of time to fully respond.** If not able to respond within the five business-day period, the Public Records Officer 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 Kitsap Transit'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.

**e. Notification that records are available.** If the requestor has sought to inspect the records, the Public Records Officer will notify him or her that the entire response or an installment is available for inspection and ask the requestor to contact Kitsap Transit to arrange a mutually agreeable time for inspection. If the requestor seeks copies, the Public Records Officer should notify him or her of the projected costs and whether a deposit is required before making the copies.

**f. Consequences of failure to respond.** If Kitsap Transit does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the Public Records Officer to determine the reason for failure to respond.

**g. Consequences of failure to clarify a request.** If the requestor does not respond to Kitsap Transit's request for clarification within 30 days of Kitsap Transit's request, the Public Records Officer may consider the request abandoned, send a letter closing the response to the requestor, and re-file the records.

**h. Consequences of disclosing a record in error.** Kitsap Transit and its officials or employees are not liable for loss or damage based on release of a public record if the agency, official, or employee acted in good faith in attempting to comply with the Public Records Act.

**i. Searching for records.** Kitsap Transit must conduct an objectively reasonable search for responsive records. The Public Records Officer will determine where responsive records are likely to be located and involve Records Coordinators in other departments, as needed, to assemble the records. After the records are located, the Public Records Officer should take reasonable steps to narrow down the number of records assembled to those that are responsive. Kitsap Transit will not “bury” a requestor with non-responsive documents. However, the Public Records Officer is allowed to provide arguably, but not clearly, responsive records to allow the requestor to select the ones he or she wants, particularly if the requestor is unable or unwilling to help narrow the scope of the documents being sought.

**j. Preserving requested records.** If a requested record is scheduled shortly for destruction under Kitsap Transit records retention schedule, the record cannot be destroyed until the public records request has been resolved. Once a request has been closed, the Public Records Officer can destroy the record in accordance with the retention schedule.

**k. Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part (see Section 8). If Kitsap Transit believes that a record is exempt from disclosure and should be withheld, the Public Records Officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of the record is determined to be exempt, the Public Records Officer will redact the exempt portions and provide the non-exempt portions [See Section 6(m) below].

**l. Protecting the rights of others.** If the requested records contain information that may affect rights of others and may be exempt from disclosure, prior to providing the records the Public Records Officer may give notice to those whose rights may be affected by the disclosure. Generally, two weeks’ notice will be given in order to make it possible to contact the requestor and ask him or her to revise the request or, if necessary, allow affected individuals to seek an order from a court to prevent or limit the disclosure. The notice to the affected person(s) will include a copy of the request.

**m. Redactions.** 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. For example, the Public Records Officer shall redact identifying details such as social security numbers when he or she makes available or publishes any public record. In each case, the justification for the deletion shall be explained in writing.

**n. Personal privacy and vital government interests.** The privacy exemption does not apply if the information that might violate personal privacy or vital government interests can be redacted from the records being sought.

**o. Inspection of records.** To the extent possible due to other demands, the Public Records Officer shall promptly provide space to inspect public records. The requestor must claim or review the assembled records within thirty days of the Public Records Officer's notification that the records are available for inspection or copying. The Public Records Officer will notify the requestor in writing of this requirement and suggest that he or she contact the agency to arrange to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period, or make other arrangements, the Public Records Officer may close the request and re-file the assembled records. Other public records requests can be processed before a subsequent request by the same person for the same or almost identical records, which will be processed as a new request. The Act does not allow a requestor to search through Kitsap Transit files for records, which cannot be identified or described to Kitsap Transit. Members of the public may not remove documents from the viewing area, disassemble, or alter any document.

**p. Providing copies of records.** The requestor shall indicate which documents he or she wishes to have copied using a mutually agreed upon non-permanent method of marking the desired records. After inspection is complete, the Public Records Officer will arrange for copying. Making a copy of an electronic record is considered copying and not creation of a new record.

**q. Providing records in installments.** When a request is for a large number of records, the Public Records Officer will provide access for inspection and copying in installments if he or she reasonably determines that it would be practical to provide the records in that way. If the requestor fails to inspect the entire set of records or one or more of the installments within 30 days, the Public Records Officer may stop searching for the remaining records and close the request.

**r. Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer will indicate that Kitsap Transit has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

**s. Closing withdrawn or abandoned requests.** If the requestor withdraws the request, fails to fulfill his or her obligations to inspect the records, or fails to pay the deposit or final payment for the requested copies, the Public Records Officer will close the request and indicate to the requestor that Kitsap Transit has closed the request. The Public Records Officer will document closure of the request and the conditions that led to closure.

**t. Later discovered documents.** If, after the Public Records Officer has informed the requestor that Kitsap Transit has provided all available records, Kitsap Transit becomes aware of additional responsive documents that existed on the date of the request, the Public Records Officer will promptly inform the requestor of the additional documents and provide them on an expedited basis.

**u. No duty to create records.** Kitsap Transit is not obligated to create a new record to satisfy a records request; however, Kitsap Transit may, in its discretion, create such a new record to fulfill the request where it may be easier for Kitsap Transit 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. However, the requestor must agree in writing that the new record will satisfy the request.

**v. No duty to supplement responses.** Kitsap Transit is not obligated to hold current records requests open to respond to requests for records that may be created in the future. If a public record is created or comes into the possession of Kitsap Transit after a request is received by Kitsap Transit, it is not responsive to the request and will not be provided. A new request must be made to obtain later-created public records.

## **Section 7. Processing Requests for Electronic Records**

When a request is made for records in electronic format, Kitsap Transit should provide the documents in electronic format if reasonably and technically feasible. The Preservation of Electronic Records requirements are outlined in WAC 434-662. An "electronic record" includes those public records, which are stored on machine-readable file format. If a record is created in an electronic format, the electronic record is the primary record and is subject to provisions of RCW 42.56, the Public Records Act. Electronic records must be retained in electronic format and remain usable, searchable, retrievable and authentic for the length of the designated retention period. Printing and retaining a hard copy is not a substitute for the electronic version. Responses to public record requests for electronic records other than those in common file formats such as pdf or similar formats will be coordinated through the Public Records Officer.



## **Section 8. Exempt and Prohibited Disclosure of Public Records**

Kitsap Transit 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 or federal statute or regulation.

**a.** Kitsap Transit is prohibited by statute from disclosing lists of individuals for commercial purposes.

**b.** The Public Records Act, RCW 42.56, provides that a number of document types and information are prohibited from being disclosed or are exempt from public inspection and copying. A current nonexclusive list of prohibitions and exemptions not enumerated in Chapter 42.56 RCW published by Municipal Research Service Center in "Public Records Act for Washington Cities, Counties, and Special Purpose Districts" will be provided upon request by the Public Records Officer.

Kitsap Transit's failure to list an exemption shall not affect the effectiveness of the exemption.

## **Section 9. Costs of Providing Copies of Public Records**

Per state law, Kitsap Transit cannot charge for locating a public record, for making records available for review, inspection, or for the download of records routinely posted on the Kitsap Transit website. Kitsap Transit may; however, charge the default charges set forth in RCW 42.56.120 and declare that establishing actual costs would be unduly burdensome.

**a. Fee schedule.** Pursuant to RCW 42.56.120, Kitsap Transit elects to use the statutory default fees. These fees will be further outlined in the administrative fee schedule and made available on Kitsap Transit's website. Actual costs incurred for the production or duplication of records by an outside vendor for non-routine formats such as photographs, blueprints, or audio/video recordings, will be passed along to the requestor. Kitsap Transit will notify the requestor and provide an estimate of charges when possible prior to proceeding with outsourcing the request.

**b. Declaring Adoption of Actual Costs Unduly Burdensome.** Kitsap Transit's history of receiving public records requests has been reasonably manageable by staff.

- i.** The time and cost associated with establishing salaries, time spent, equipment use, and supply consumption would be unreasonable and burdensome, creating additional work for the Public Records Officer and staff responsible for assisting with the production of records requests.

**c. Certified copies.** Where the request is for a certified copy, an additional charge may be applied to cover the additional expense and time required for certification. Charges for certification may be found online at [www.kitsaptransit.com](http://www.kitsaptransit.com) on the Public Records Requests webpage.

**d. Faxing and mailing charges.** Kitsap Transit may also charge actual costs of long distance facsimile transmission and/or mailing, including the cost of the shipping container.

**e. Sales tax.** Kitsap Transit will not charge sales tax on copies of records.

**f. Deposit or payment by installments.** Before beginning to copy records, the Public Records Officer or designee may require a deposit of up to ten percent of the estimated costs of copying the records selected by a requestor. The Public Records Officer may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

**g. Method of payment.** Payment may be made by cash, check, or money order to Kitsap Transit.

**h. 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 Kitsap Transit if the Public Records Officer determines that this action is in the best interest of Kitsap Transit.

## **Section 11 Integrated Policy**

This policy constitutes the entire Public Records Policy for Kitsap Transit and shall supersede all previous policy statements regarding public records.