

ORDINANCE NO. 1826

AN ORDINANCE OF THE TOWN OF FRIDAY HARBOR, WASHINGTON ADOPTING A NEW SECTION TO THE FRIDAY HARBOR MUNICIPAL CODE CHAPTER 2.10.040 PUBLIC RECORDS POLICY.

WHEREAS, the Public Records Act, Chapter 42.56 RCW, requires every agency to make public records available for public inspection and copying; and

WHEREAS, the Town of Friday Harbor constitutes an agency subject to the Public Records Act; and

WHEREAS, pursuant to Resolution No. 2048 the Town adopted a public records policy on August 7, 2014, and adopted Amendment No. 1 to said policy pursuant to Resolution No. 2912 on November 21, 2024; and

WHEREAS, Washington State law, policy, and procedures for public records require review and revision of this policy; and

WHEREAS, it is in the best interest of the Town to codify the public record policy;

NOW, THEREFORE BE IT ORDAINED by the Council of the Town of Friday Harbor to adopt a new section to the Friday Harbor Municipal Code Chapter 2.10.040 Public Records Policy:

SECTION 1. AUTHORITY AND PURPOSE

1.1 Public Records Act. RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The Public Records Act ("PRA") defines a public record to include 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 the agency. RCW 42.56.010(3). RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the PRA, that exempts or prohibits the disclosure of public records held by that agency.

1.2 Rules. The purpose of these rules is to establish the procedures the Town of Friday Harbor ("Town") will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Town and establish processes for both requestors and Town staff that are designed to best assist members of the public in obtaining such access.

1.3 Purpose. The purpose of the PRA is to provide the public full access to information concerning the conduct of government, while mindful of individuals' privacy rights and the desirability of the efficient administration of government. The PRA and these rules will be interpreted in favor of

disclosure. In carrying out its responsibilities under the PRA, the Town will be guided by the provisions of the act describing its purposes and interpretation.

SECTION 2. CONTACT INFORMATION—PUBLIC RECORDS OFFICER

2.1 Location. The Town's central office (Town Hall) is located at 60 Second Street S., Friday Harbor, Washington 98250.

2.2 Public Records Officer. The Town Clerk is the Town's designated Public Records Officer. Any person wishing to request access to public records of the Town or seeking assistance in making such a request should contact the Town Clerk as follows:

Public Records Officer
Town of Friday Harbor
60 Second Street S.
PO Box 219
Friday Harbor, Washington 98250
Phone: (360) 378-2810
Email: publicrecords@fridayharbor.org

2.3 Designee. The Public Records Officer will oversee 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 their designee.

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

2.5 Compliance. The Town shall comply with state laws affecting the maintenance and preservation of public records, including but not limited to the guidelines promulgated by the Washington Secretary of State Division of Archives and Records Management.

SECTION 3. ORGANIZATION AND PROTECTION OF PUBLIC RECORDS

In order to protect public records from unintended damage, destruction, and disorganization, public records should be created and maintained in accordance with the following:

1. **Retention of Public Records.** The Town is required to retain public records consistent with Chapter 40.14 RCW and the PRA. Under Chapter 40.14, the State establishes retention schedules for public records, which allows the Town to destroy public records upon expiration of a certain period of time based on the type and/or content of the record. However, the RA prohibits all public records from being destroyed if they are subject to an existing public records request. Public records may not be destroyed, in accordance with a retention schedule, if a public records request has been submitted for the records or actual or anticipated litigation is pending.

2. **Organization of Public Records.** Town employees and elected officials shall make every reasonable effort to label and retain public records in a reasonably logical manner to ensure that the Public Records Officer, or their designee, can locate and identify records that are responsive to PRA requests. Town employees should consult their Department Director and elected officials should consult the Town Administrator's Office for guidelines on how to label and retain records.

If a Town employee or elected official discovers that a public record has been misfiled, mislabeled, or otherwise stored in a manner that is inconsistent with current practices, the employee or elected official should make reasonable efforts to properly file, label, or move the public record to its proper location.

3. **Public Records on Non-Town Devices and Accounts.**

- i. **Electronic Communication Records.** Town and elected officials should avoid using electronic devices or accounts that are not owned or maintained by the Town to conduct Town business.
- ii. **Transferring Public Records to Town Devices or Accounts.** If a public record is received or stored on a non-Town device, the Town employee or official in possession of the device should transfer a copy of the record to a Town-owned device or account for retention. (For example, if an employee receives a text message on their personal phone that qualifies as a public record, the employee should immediately forward a copy of the message to their Town phone or email account.) Town employees and officials who are unsure how to transfer such records should contact the Public Records Officer for guidance.
- iii. **Leaving Town Employment or Office.** Prior to leaving Town employment or office, all Town employees and officials are required to complete a reasonably detailed, nonconclusory affidavit that declares that they have: (a) never used any personal device or account to conduct business related to their employment or position or (b) searched their personal devices and accounts where Town public records are reasonably likely to exist and have provided all Town public records to the Public Records Officer.

SECTION 4. MAKING A REQUEST FOR PUBLIC RECORDS

4.1 Request Form

Any person wishing to inspect or copy public records of the Town should make the request in writing on the Town's request form or by letter, fax, or e-mail addressed to the Public Records Officer and include all the following information:

- a) First and last name of requestor;
- b) Contact information for requestor: address, phone number, and email address;

- c) Date and time of day of request;
- d) Detailed identification of the requested public records adequate for the Public Records Officer to locate the records; and
- e) Address where copies should be mailed, if copies are requested.

A public records request form is available at Town Hall, on the Town website at <https://www.fridayharbor.org/>, or by contacting the Public Records Officer:

Public Records Officer
Town of Friday Harbor
60 Second Street S.
PO Box 219
Friday Harbor, Washington 98250
Phone: (360) 378-2810
Email: publicrecords@fridayharbor.org

While the Public Records Officer may accept a verbal request for public records that contains the above information, a verbal request, whether made by telephone or in person, will require the requestor to confirm receipt of the request and the substance of the request in writing.

4.2 Document Copies or Scans

If the requestor wishes to receive copies of public records, rather than inspect the records at Town Hall, the requestor must indicate this on their request form and make arrangements to pay for copies and a deposit on a USB drive, if necessary. Refer to the Town's adopted fee schedule for copies, scans, digital documents provided in a digital format, and postage.

SECTION 5. PROCESSING PUBLIC RECORDS REQUESTS

5.1 Providing Fullest Assistance

The Town is charged by statute with adopting rules for how it 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 most timely possible action on public records requests. The Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

5.2 Response to records request

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

- a) Provide the requested record(s);
- b) Provide an internet address and link on the Town's website to the requested records;
- c) Send correspondence to the requestor, notifying it that the requested records are available for inspection or copying upon payment of an invoice;
- d) Send correspondence to the requestor, acknowledging receipt of the request and provide a reasonable estimate of the time necessary for the Town to respond to the request;

- e) Send correspondence to the requestor acknowledging receipt of the request and requesting clarification of the request if the request is unclear;
- f) Send correspondence to the requestor, denying the request, including a records exemption log if exempt records exist.

5.3 Consequences of failure to respond

If the Town does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the Public Records Officer to determine the reason for the failure to respond.

5.4 Reasons for additional time to respond

The Town 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 the Town'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 a denial should be made to all or part of the request.

This list is not exhaustive, and the Town reserves the right to require additional time as permitted by the PRA or other applicable laws.

5.5 Unclear requests

In acknowledging receipt of a request that is unclear or ambiguous, the Town may ask the requestor to clarify what records the requestor is seeking. If the requestor fails to clarify the request within the time requested by the Town and the entire request is unclear, the Town may deem the request abandoned and close the request.

5.6 Conducting searches for public records

Upon receipt of a valid and clear PRA request, the Public Records Officer shall conduct a reasonable search for responsive records as soon as practicable and notify all individuals who may be in possession of responsive records of the request. If a requested record is scheduled shortly for destruction under the Town's records retention schedule, the record cannot be destroyed until the public disclosure request has been resolved. Once a request has been closed, the Town may destroy the record in accordance with the retention schedule.

If, after reviewing a public records request, the Public Records Officer finds that it is necessary to search for public records located on personal devices/accounts of Town officials and staff, the Public Records Officer shall require individuals in possession of such devices/accounts to conduct an adequate search for public records on their devices/accounts, provide the Public Records Officer with all responsive records, and then complete and provide the Public Records Officer

with a reasonably detailed nonconclusory affidavit attesting to the nature and extent of their searches.

5.6 Notice to third parties

In the event that the requested 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. The Town may send this notice to the individual or organization if releasing the personal information could damage the individual, organization, or government operations or is not in the best interest of the public. The notice to the affected persons shall include a copy of the records request, the date the Town intends to release the record, and how the individual or organization may prevent the record's release. The Town will release such records by the specified date if the Town has not been served with a court order prohibiting release of the records by the specified date. This procedure shall not create any rights to third parties to such notice.

5.7 Records exempt from disclosure.

- a) 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 exemptions outside the Public Records Act that restrict the availability of some documents held by the Town for inspection and copying. See the Exemption Key provided by the Washington State Association of Public Records Officers attached hereto as Exhibit A.
- b) 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. However, if an entire record is exempt from disclosure, the Public Officers will withhold the entire record.
- c) If records are redacted or withheld in response to a request because the content is exempt from public inspection and copying, the Public Records Officer shall provide a records exemption log to the requestor listing the specific exemptions invoked and a brief explanation of why the record or a portion of the record is being withheld. The log should identify the type of record, its date, number of pages, and the author or recipient of the record (unless their identity is exempt). The log should include enough information to allow a requestor to make a threshold determination of whether the Town has properly invoked the exemption.
- d) The Town is prohibited by statute from disclosing lists of individuals for commercial purposes (RCW 42.46.070(9)).

5.8 Categories of Requests & Standard Response Times. The Town receives a significant number of public records requests annually and must allocate staff resources in a manner that responds to each request thoroughly, correctly, and within required deadlines. In order

to do so and maintain the Town's ongoing regular service and functions, it is necessary to differentiate public records requests according to their complexity and the estimated staff time involved in completing the request. When a public records request is received, the Public Records Officer and/or the designated department will categorize the request according to the nature, volume, and availability of the requested records as follows:

- a) Category 1 records requests are routine or readily filled requests for easily identified and immediately accessible records requiring little or no coordination between departments. Examples include requests to review a permit file made at the Community Development Planning counter and/or requests for a copy of a Resolution or Ordinance.
- b) Category 2 records requests are routine requests that involve:
 - i. more than one record or file, and/or
 - ii. records not easily identified, located and accessible, and/or
 - iii. records that require some coordination between departments.
- c) Category 3 records requests are complex requests which involve:
 - i. a large number of records, and/or
 - ii. research by Town staff or an email search, and/or
 - iii. review by the Public Records Officer to determine whether any of the records are exempt from production.
- d) Category 4 records requests are complex requests that may be especially broad (such as requesting "all records" pertaining to a topic) which may involve:
 - i. a large number of records that are not easily identified, located or accessible, requiring coordination between multiple departments, and/or
 - ii. research by Town staff who are not primarily responsible for public disclosure, and/or
 - iii. legal review and creation of an exemption log. These requests may require additional assistance from third parties.

After initial categorization, records requests may be re-categorized in response to unanticipated circumstances or additional information.

Mindful of the requirements of RCW 42.56.100 to provide the fullest assistance to the extent reasonably possible, the Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner. The following standard periods for response to all categories of records requests are established as goals.

- a) Category 1 records requests. Generally, the Town will respond to Category 1 records requests within five business days. If records cannot be made available within five business days, the Town may extend the time to respond as described above.
- b) Category 2 records requests. The Town will provide a written response to the requestor within five business days with a reasonable estimate of the time necessary to make the records available. The estimate is made on a case-by-case basis. Depending on the nature and scope of the request, Category 2 requests usually require between 5 and 30 business days.
- c) Category 3 records requests. Due to the number and complexity of the records involved, the Town will respond to these requests in installments. The Town will provide a written response to the requestor within five business days with a date for the first installment of records. Depending on the nature and scope of the request, Category 3 records requests may require several weeks to several months.
- d) Category 4 records requests. Due to the number and complexity of the records involved, the Town will respond to these requests in installments. The Town will provide a written response to the requestor within five business days with a date for the first installment of records. Depending on the nature and scope of the request, Category 4 records requests may require several weeks to a year or more.

5.9 Multiple requests by the same requestor. In order to provide the fullest assistance to all records requestors and to prevent excessive interference with other essential functions of the Town, if the same requestor, or their representative, has submitted multiple requests categorized by the Town as Category 3 or 4 requests, the Public Records Officer may process the requests one at a time and in the order received while simultaneously processing other requestors' later-received requests. However, requestors may prioritize the order in which the Town processes such multiple requests. If a requestor submits multiple Category 3 or 4 requests that relate to the same subject, project, keyword, etc., the Public Records Officer may consolidate such requests to be processed simultaneously. The Town shall endeavor to provide all requestors, and their representatives, with equal assistance and attention, to the extent reasonably and feasibly possible.

SECTION 6. INSPECTION OF RECORDS

6.1 Inspection guidelines. In order to ensure someone is available to provide assistance to requestors, records will be made available for inspection, scanning, and/or copying during regular business hours at the Town's main office by appointment at a mutually convenient time. However, the Town shall have the right to set the hours for inspection.

Consistent with other demands, the Town shall provide space to inspect public records in the presence of the Public Records Officer or designated staff. During inspection, no member of the public may remove a document from the viewing area, disassemble documents, or alter any document. If a requestor desires copies of records, the requestor shall indicate to the Town which documents need copying or scanning.

To protect Town public records from damage or disorganization, as well as to ensure the safety and security of the Town's network and systems, requestors shall not be permitted to access or "plug into" Town networks or systems or copy records using personal devices or equipment, such as USBs or scanners, which must be connected to Town equipment in order to copy records.

6.2 Timeline and notification. The requestor must claim or review the assembled records within 30 days of the Town's notification that the records are available for inspection or copying. The Town will notify the requestor in writing of this requirement and inform the requestor of the need to contact the Town to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the 30-day period or make other arrangements, the Town may close the request and re-file the assembled records. Other public records requests may be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

SECTION 7. PROVIDING COPIES OR SCANS OF RECORDS

After inspection is complete, the requestor shall notify the Public Records Officer which of the requested documents are to be copied or scanned. The Town requires a deposit for a USB drive for delivery of scanned documents.

SECTION 8. PROVIDING RECORDS IN INSTALLMENTS

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

SECTION 9. CLOSING FULFILLED REQUESTS

After a requestor has been granted the opportunity to inspect the requested records, or after all requested copies have been provided to the requestor (other than records exempt from disclosure), the Public Records Officer will close the request and provide written notice to the requestor informing it in plain language:

- a) The Town has closed the public records request because it has fulfilled the request;
- b) The Town has fulfilled the request because it has provided the requestor with an opportunity to inspect, or copies of, all non-exempt, responsive public records;
- c) The PRA's one-year statute of limitations to seek review under RCW 42.56.550 has started to run and that the agency does not intend to further address the request;
- d) The requestor may submit follow-up questions to the Public Records Officer within thirty (30) days; and
- e) The requestor has the right to seek internal review of any denial of an opportunity to inspect, or receive copies of, public records pursuant to Section 13 of this policy below.

SECTION 10. CLOSING WITHDRAWN REQUESTS, ABANDONED REQUESTS, AND FOR NON-PAYMENT

If a requestor withdraws its request, fails to inspect the requested records within the time specified by the Town, fails to pick-up copies of requested records within the time specified by the Town, or pay a deposit or final payment for the requested copies, the Public Records Officer will close the request provide written notice to the requestor informing it in plain language:

- a) The Town has closed the public records request and specify the reason why the request has been closed;
- b) The PRA's one-year statute of limitations to seek review under RCW 42.56.550 has started to run and that the agency does not intend to further address the request;
- c) The requestor may submit follow-up questions to the Public Records Officer within thirty (30) days; and
- d) The requestor has the right to seek internal review of any denial of an opportunity to inspect, or receive copies of, public records pursuant to Section 13 of this policy below.

SECTION 11. LATER DISCOVERED DOCUMENTS

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

SECTION 12. COST FOR PROVIDING COPIES OF PUBLIC RECORDS

12.1 Cost to inspect public records. There is no fee for inspecting public records.

12.2 Cost to receive copies of public records. Refer to the Town's adopted fee schedule for copying charges. Fees will be waived for requests submitted by a state or local government agency.

12.3 Deposit and Payment. Before beginning to make copies, the Public Records Officer may require a deposit of up to 10% of the estimated cost of copying the records selected by the requestor or a deposit for a Town-provided USB drive. The Public Records Officer may also require the payment of the remainder of the copying costs before providing all the records or payment of copying costs for an installment before providing that installment. The Town will not charge sales tax when it makes copies of public records.

12.4 Cost of mailing. If records are to be mailed to the requestor, the Town may charge the requestor the actual cost of mailing the records, including the cost of the shipping container.

12.5 Cost of digital storage media or device. If requested records are to be provided to the requestor on a digital storage media or device (e.g., USB drive), the Town may charge the actual cost of any digital storage media or device provided by the Town.

12.6 Type of payment. Payment may be made by cash, check, or money order to the Town of Friday Harbor.

12.7 Use of outside vendors. In situations where an outside vendor can make copies of the requested records more quickly and less expensively than the Town, the Town, in its sole discretion, may choose to use a commercial vendor to make the requested copies and bill the requestor for the amount charged by the vendor.

12.8 Other costs. Refer to the Town's fee schedule.

SECTION 13. REVIEW OF DENIALS OF PUBLIC RECORDS.

13.1 Petition. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the Public Records Officer for an internal administrative review of that decision. The petition shall include a copy or reasonable identification of the written statement by the Public Records Officer denying the request.

13.2 Consideration of petition for review. Upon receipt of a petition for review, the Public Records Officer shall promptly provide the petition and any other relevant information to the Town Administrator or their designee to conduct the review. That person will then consider the petition and either affirm or reverse the denial within two business days following the Town's receipt of the petition, or within such other time to which the Town and the requestor mutually agree.

13.3 Judicial review. Notwithstanding any provision in this Section 13, any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 regardless of any internal administrative appeal.

SECTION 14. DISCLAIMER OF LIABILITY

Neither the Town 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 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 the Town beyond those imposed by state and federal law.

SECTION 15. RECORDS INDEX

RCW 42.56.070(3) requires public agencies to maintain and make available for public inspection and copying a current index providing identifying information as to the certain records issued, adopted, or promulgated after January 1, 1973. Pursuant to RCW 42.56.070(4), the Town does not maintain an index of public records because doing so would be unduly burdensome and interfere with Town operations, for the following reasons:

- The Town's budget and staffing are limited. Currently, the Town only employs roughly 36 employees;
- The Town's Public Records Officer, who would be responsible for maintaining an index, serves primarily as the Town Clerk with numerous other responsibilities.
- The index requirements of the PRA were enacted in 1972 when agencies had far fewer records, the vast majority of records were paper, and an index was easier to maintain. Although more modern technology may allow other agencies to map out, archive, and then electronically search for electronic documents, due to the Town's limited resources, acquiring said technology would pose a financial hardship on the Town.

- The Town is divided into various departments, which maintain separate databases and/or recording-keeping systems for the indexing of records and information. In addition, the volume of records produced by each department precludes any attempt to maintain a comprehensive and current index of records;
- The requirement to continually update said index to ensure it is current would be nearly impossible given the resources and staff time that would require;
- The Town does not have a central repository for all of its public records and would, therefore, have to have multiple indices and multiple employees charged with constant updates to those indices;
- The Town has only received one request to inspect, or receive copies of, indices within the past several years; and
- Many of the records that must be indexed are already publicly available online, including, but not limited to, the Town's municipal code, ordinance log, resolution log, and Comprehensive Plan and related documents.

If the Town were to comply with the indexing requirements of RCW 42.56.070(3), the Town Clerk would be unable to perform their other responsibilities delegated to them under the Town's municipal code and State law. As a result, the Town would be required to hire at least one more staff member to assist the Town Clerk at a significant cost to the Town's taxpayers. In addition, due to the sheer volume of records that would need to be indexed, the Town would also likely be required to hire more employees and acquire technology that would enable staff to efficiently create and maintain indices, at an additional cost to taxpayers.

Pursuant to RCW 42.56.070(4)(b), all indices currently used by the Town are available for public inspection and copying. The determination made in this section shall be considered to be a "formal order" of the Town as that term is used by RCW 42.56.070(1)(4)(a).

The Washington State Association of Public Records Exemption Key is attached hereto as Exhibit A.

DULY PASSED AND ADOPTED this 16th day of October 2025.

TOWN OF FRIDAY HARBOR



Raymont C. Jackson, Mayor

SEAL of the
Town of Friday Harbor
ATTEST:

Jennifer M. Krembs
Jennifer M. Krembs, Town Clerk